

PE - 10/24/76

RECEIVED

Ken - Here's the
plan w/owner letter. 10/24/76
Have Frank review +
let's discuss. Stan

Mr. Thomas Jennings
OCCI
360 Rainbow Boulevard
Niagara Falls, New York 14303

Dear Mr. Jennings:

I am pleased to forward a copy of the revised Public Involvement Plan developed to improve public participation in the permitting process for Occidental's various RCRA activities.

The draft was developed by EPA's Region II in conjunction with the New York State Department of Environmental Conservation. This revision includes comments from each agency as well as those you provided.

A copy has been sent to the State for approval.

I am confident this Plan will serve as a valuable bridge between citizens, their government and Occidental Petroleum. Thank you again for your helpful comments.

Sincerely yours,

James R. Marshall
Director
Office of External Programs

Enclosure

cc: James Dolen
Solid & Hazardous Waste Management, DEC

Bruce Bentley
Office of Public Affairs, DEC

Charles Kollatz
DEC, Region 9

bcc: Conrad Simon, AWM
Stanley Siegel, AWM
Frank Langone, AWM

Mr. Norman Nosenchuck
Director
Solid & Hazardous Waste
New York State Department of
Environmental Conservation
50 Wolf Road, Room 212
Albany, New York 12233

Dear Mr. Nosenchuck:

We are pleased to send you the enclosed revised Public Involvement Plan for the Occidental Petroleum plant in Niagara Falls, New York.

The plan, developed by EPA's consultants, ICE, in conjunction with Region II and DEC over the past year, includes your comments on the previous draft, as well as comments from EPA Headquarters and Occidental.

I sincerely hope you will find this a worthwhile and effective tool in encouraging better communications with the public in the Niagara region, and hope that your office will approve the plan as soon as possible.

Yours sincerely,

James R. Marshall
Director
Office of External Programs

Enclosure

cc: Bruce Bentley
Office of Public Affairs, DEC

James Dolen
Solid & Hazardous Waste Management, DEC

Charles Kollatz
DEC, Region 9

bcc: Conrad Simon, AMH
Stanley Siegel, AMH
Frank Langone, AMH

**FINAL PUBLIC INVOLVEMENT PLAN
OCCIDENTAL CHEMICAL CORPORATION FACILITY
NIAGARA FALLS, NEW YORK**

I. OVERVIEW OF PUBLIC INVOLVEMENT PLAN

This public involvement plan identifies issues of community concern, sets the objectives for the public involvement program, and suggests methods for meeting those objectives regarding the Occidental Chemical Corporation's (Occidental) application for state and federal permits to store and incinerate hazardous wastes at the company's Niagara Plant facility in Niagara Falls, New York. In addition to the wastes currently being incinerated at the facility, Occidental will apply for a modification to the federal permit, if it is issued, and to the state permit, if it is renewed, to allow it to incinerate other wastes from a nearby privately-owned landfill, known as the Hyde Park Landfill, and from Occidental-owned facilities in Taft, Louisiana, Tacoma, Washington, and North Tonawanda, New York. Occidental is submitting its application to store and incinerate these wastes under the rules of the Resource Conservation and Recovery Act (RCRA) of 1976, an act giving the U.S. Environmental Protection Agency (EPA) authority to regulate the treatment, storage, and disposal of hazardous wastes, and the RCRA Hazardous and Solid Waste Amendments of 1984 (HWSA).¹

In many states, including New York, the state's environmental agency is authorized by EPA to administer parts of the RCRA program. In New York, NYSDEC administers a major portion of the RCRA hazardous waste management program. EPA administers the remainder of the program. In addition, NYSDEC administers Article 8 (State Environmental Quality Review or SEQR) of New York State's Environmental Conservation Law, which governs public involvement in the permitting process. (See Appendix A for more detail on these state statutes and programs as well as other relevant federal regulations.)

This plan outlines public involvement activities that will be conducted by the New York State Department of Environmental Conservation (NYSDEC) and U.S. EPA Region II (EPA) throughout the duration of the Occidental permit application process. Public involvement in the RCRA permitting process provides an opportunity for all potentially affected and interested parties to become informed about and involved in the permitting process. Whether the final determination is to issue or deny a permit, a public involvement program ensures that EPA and NYSDEC are kept well-informed of citizens' concerns and, thus, are better able to respond to those concerns. Such a program also may provide valuable information and ideas for EPA and NYSDEC to consider in developing permit conditions that effectively protect human health and safety and the environment, should permits be issued.

This public involvement plan consists of the following sections:

- Description of the Facility;
- Community Background;
- Key Community Concerns;
- Objectives of the Public Involvement Program; and
- Public Involvement Techniques and Schedule.

¹ Appendix A provides a brief overview of federal and New York State laws governing hazardous waste treatment, storage, and disposal facilities.

The plan also includes three brief appendices. Appendix A provides a brief overview of federal and New York State laws governing hazardous waste treatment, storage, and disposal facilities. Appendix B provides information on suggested locations for information repositories. Appendix C provides the addresses and phone numbers of media contacts.

Information for this plan was obtained during interviews conducted with residents and local officials by EPA, NYSDEC, and EPA contractor personnel in October 1986. This plan has been prepared in accordance with EPA's Guidance on Public Involvement in the RCRA Permitting Program (January 1986). Concerns expressed in this plan are those of the individuals interviewed and do not represent an EPA or NYSDEC statement of policy or opinion.

II. DESCRIPTION OF THE FACILITY

A. Location

The Occidental facility, including the plant, an incinerator area, and container and tank storage area, is located in Niagara Falls, New York (see Exhibits 1 and 2). The facility is located in a primarily industrial area along the Niagara River. Buffalo Avenue runs through the Occidental plant site, and the Robert Moses Parkway (a major thoroughfare) borders the site to the south. The S-Area site -- a landfill containing hazardous wastes deposited by the Occidental Chemical Corporation -- is located in the southeast corner of the plant property, and the Niagara Falls City Water Treatment Plant lies to the east of the S-Area, off of the plant property. Iroquois Street borders the site on the west (see Exhibit 3). A resource recovery plant, also operated by Occidental, is located on the north side of Buffalo Avenue. The residential areas of Niagara Falls lie within one half mile northeast and northwest of the site.

B. Background

Occidental Chemical Corporation (formerly the Hooker Chemical and Plastic Corporation) first began operating a chemical production plant in Niagara Falls in 1909; at present, the plant employs approximately 800 people. The facility currently manufactures organic and inorganic chemical products such as chlorine, sodium hydroxide, and phosphorous trichloride, operates an incinerator, and maintains several storage areas where the facility's hazardous process wastes are stored until their incineration or shipment offsite for treatment/disposal. Occidental currently engages in these activities under both RCRA interim status² and a NYSDEC-issued Part 373 permit.

² RCRA interim status is the authority granted by EPA to hazardous waste treatment (e.g., incineration), storage, and disposal facilities in existence prior to November 19, 1980 that governs the continued operation of such facilities until a full permit application has been completed and reviewed, and a final determination to issue or deny the permit has been made.

Exhibit 1
LOCATION MAP
OCCIDENTAL CHEMICAL CORPORATION
Niagara Falls, New York

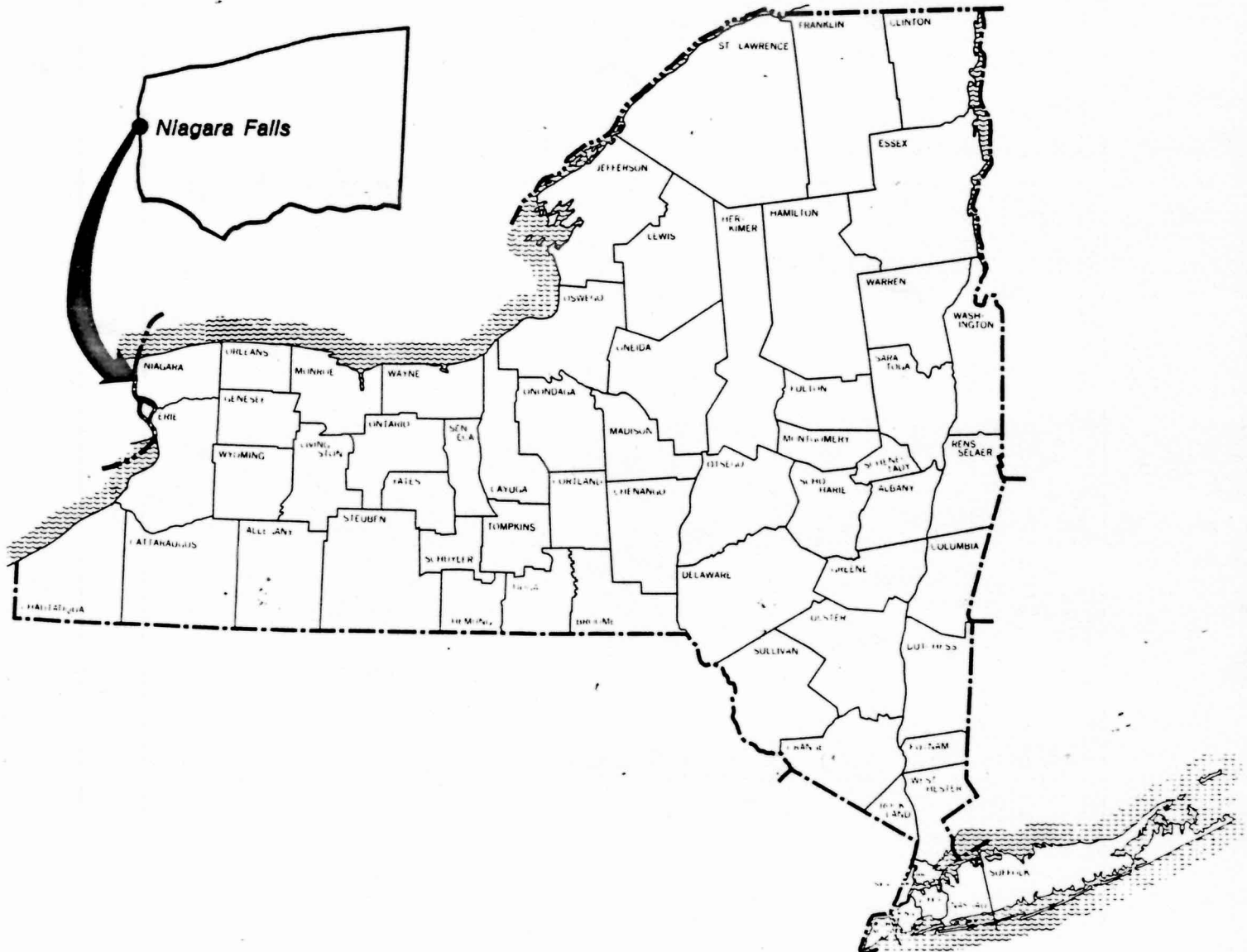


Exhibit 2
FACILITY LOCATION MAP
OCCIDENTAL CHEMICAL CORPORATION
NIAGARA FALLS, N.Y.

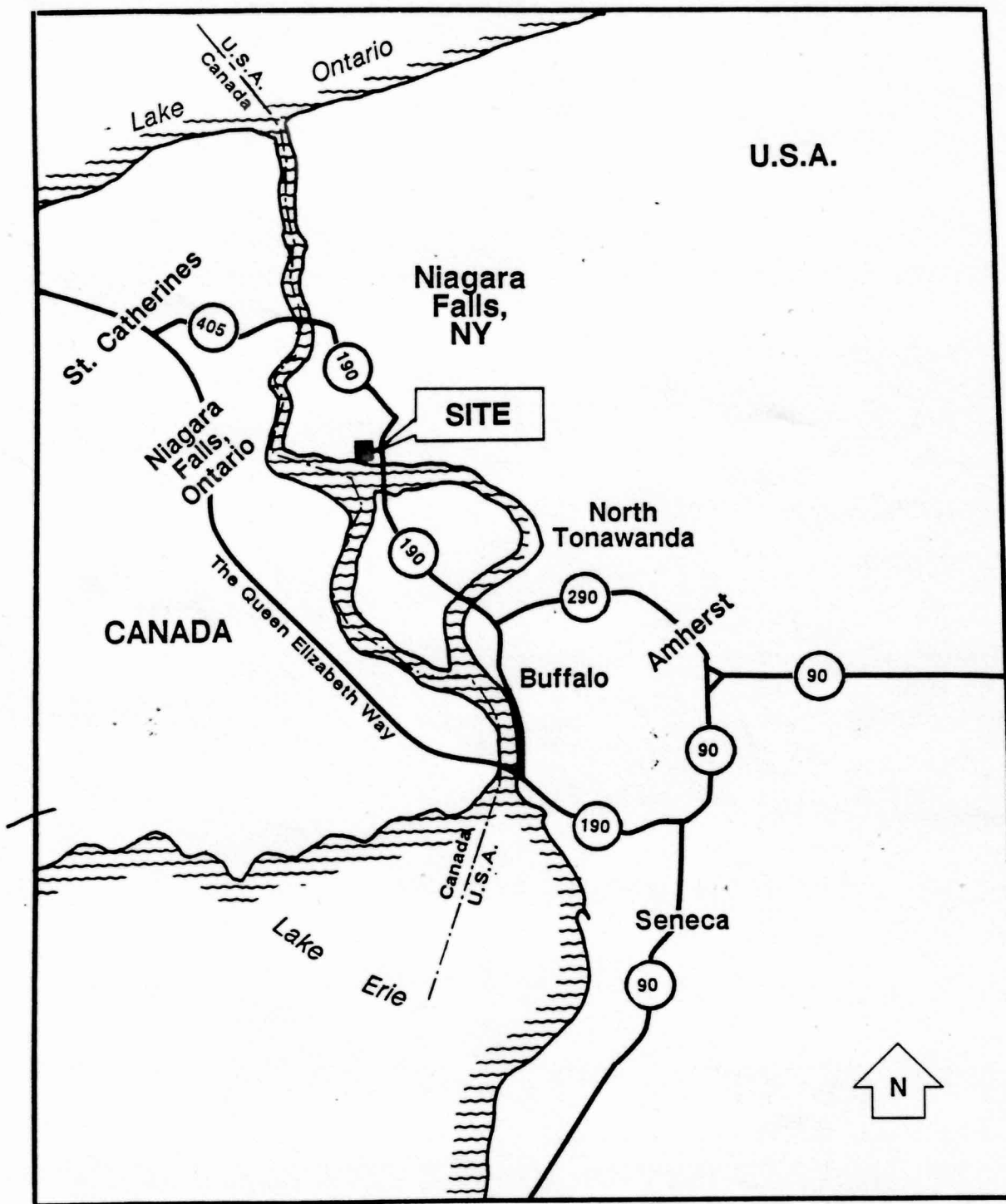
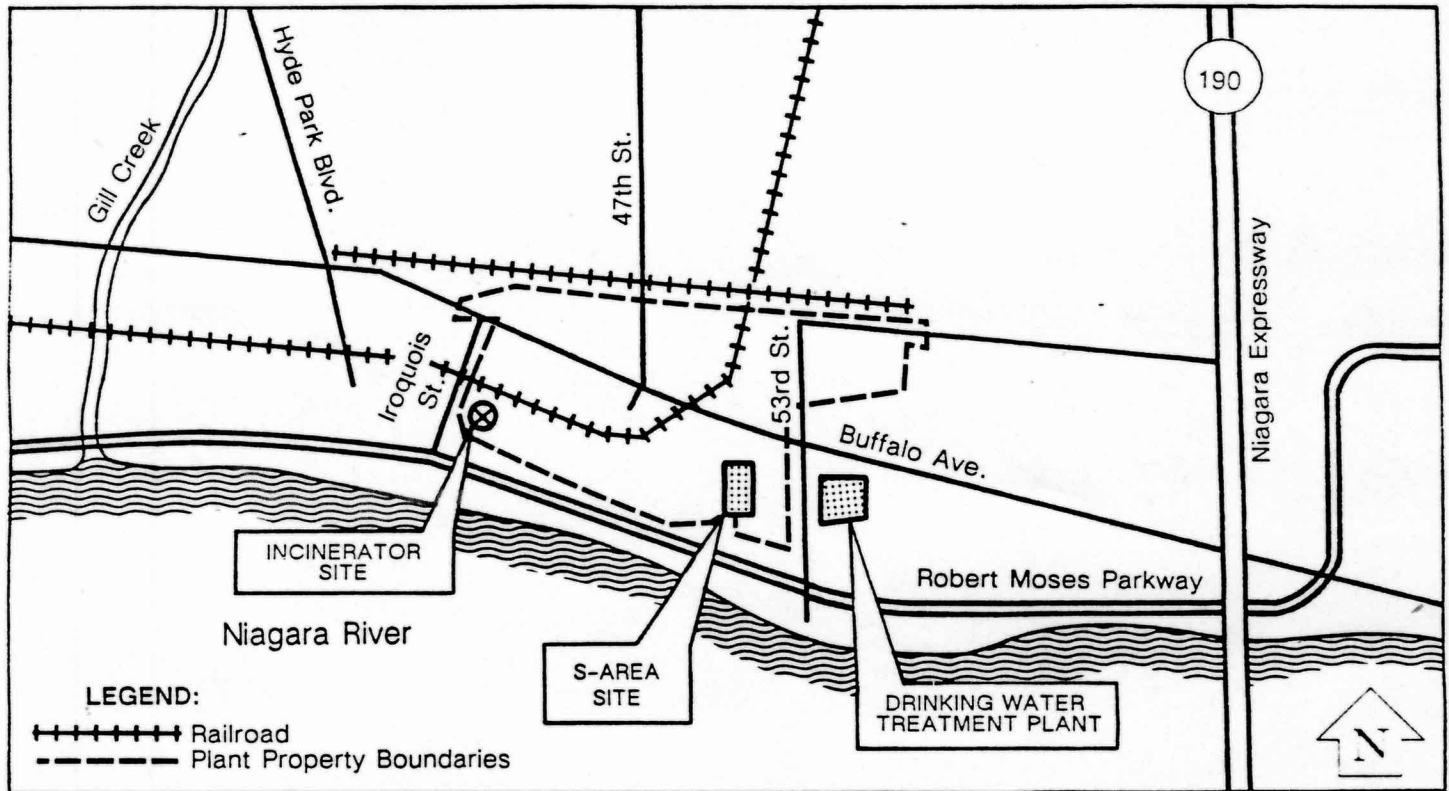


Exhibit 3
FACILITY VICINITY MAP*
OCCIDENTAL CHEMICAL CORPORATION
NIAGARA FALLS PLANT
NIAGARA FALLS, N.Y.



* Not to Scale

In March 1983, Occidental Chemical Corporation submitted a Part B RCRA permit application to EPA requesting permission to operate a hazardous waste tank and container storage area, and to incinerate hazardous wastes. This same application is being reviewed by NYSDEC to determine whether or not to renew the facility's existing Part 373 permit. Under both RCRA interim status and the existing Part 373 permit, Occidental is allowed to store and incinerate only those hazardous waste types that the plant currently produces. If Occidental's pending Part B/373 permit application is determined to be technically adequate, a draft permit will be prepared. If a final determination is made by EPA and NYSDEC to issue a permit, the state's Part 373 permit will be renewed and the RCRA interim status for the company's hazardous waste incinerator and tank and container storage facility will be upgraded to a full RCRA permit. In addition to current usage, Occidental proposes to use one of the incinerator's two combustion chambers to destroy hazardous waste generated during cleanup actions at the nearby Hyde Park Landfill and from other Occidental-owned facilities in Taft, Louisiana, Tacoma, Washington, and North Tonawanda, New York. To gain approval for this proposal, Occidental must first successfully conduct a test burn of these new wastes and apply for a modification to what would be its then-existing federal and state permits. The wastes proposed for incineration would include: polychlorinated dibenzo-p-dioxin (PCDD), polychlorinated dibenzo-p-furans (PCDF), Mirex (a pesticide), and polychlorinated biphenyls (PCBs). The first two chemicals listed are types of dioxins. Both dioxins and PCBs are more toxic than the substances currently incinerated at Occidental's facility.

The Hyde Park Landfill was used by Hooker Chemical and Plastic Corporation for disposing of hazardous waste produced by the Niagara Falls plant from 1953 to 1975. During that time, approximately 80,000 tons of hazardous materials were deposited at the site. Wastes from the landfill exist in two liquid phases -- non-aqueous phase liquids (NAPL) and aqueous phase liquids (APL). NAPL is a mixture of a wide range of organic chemicals, including dioxins and PCBs, that have relatively low solubility in water. APL is a mixture of a wide range of organic chemicals that are dissolved in water. Over seventy-five chemicals attributable to the landfill have been identified either in surface water, ground water, soil, or sediment in the vicinity of the landfill.

In 1979, the U.S. Department of Justice (DOJ) sued Occidental Chemical Corporation because these wastes were found by EPA and NYSDEC to be migrating from the landfill. Based on a subsequent agreement reached between Occidental, DOJ, and the State of New York (April 30, 1982 Settlement Agreement), Occidental is required to incinerate all NAPL waste collected by any containment or collection system at the landfill. The Settlement Agreement also requires Occidental to dispose of the APL wastes at the Hyde Park Landfill. Pursuant to this agreement, two documents, the "Stipulation on Requisite Remedial Technology" and the "Stipulation and Order on Procedures Concerning Incineration of Hyde Park NAPL" govern the treatment process for APL and NAPL wastes from Hyde Park and define a schedule for public involvement during the investigation and cleanup of the site. Occidental's permit and permit modification applications are also stipulated by the Settlement Agreement.

Occidental has been trying to obtain permission to incinerate the NAPL waste since 1982. In 1982, Occidental contracted with Chemical Waste Management Inc. (Chem Waste), a national waste disposal company, to use the Vulcanus, an ocean-going ship equipped with incineration facilities, to incinerate its waste. Chem Waste, however, was unable to obtain the EPA permit necessary to incinerate these wastes on the Vulcanus. Occidental then contracted with SCA, another large waste disposal firm, to incinerate the NAPL waste at SCA's PCB incinerator in Chicago, Illinois. After threats of a lawsuit by the State of Illinois, SCA withdrew from the contract.

Following negotiations with EPA on its permit application submitted in 1983, Occidental proposed to incinerate Hyde Park NAPL waste at its Niagara Falls incinerator. This proposal will require modifications to the permit application now under review. The proposed modifications also would allow incineration of wastes (including PCBs) from three other Occidental facilities in Louisiana, Washington, and New York. In 1985, Occidental submitted an application to EPA for a permit to conduct test burns of PCBs and NAPL waste at its Niagara Falls plant. A test burn is required as part of the technical evaluation of all hazardous waste incinerators. It consists of the controlled incineration of hazardous wastes under specific operating conditions of the incinerator. The test burn extends for a period of a few days, during which parameters (such as temperature and carbon monoxide) are monitored. Test burns for RCRA and PCB wastes were conducted for the Occidental facility between October 16, 1986 and November 10, 1986. The final test burn for NAPL waste is currently scheduled for the fall of 1987.

According to the Draft Environmental Impact Statement (DEIS) on the test burns and long-term incineration of Occidental remedial wastes (prepared by NYSDEC under SEQR regulations), fifty percent of the incinerator's capacity is currently used to incinerate process wastes from ongoing manufacturing operations. Up to fifty percent of the incinerator's capacity would be available to destroy wastes from Occidental remedial projects. Based on estimates from the DEIS, operations would consume, on average, not more than five truckloads per week of hazardous waste from the Hyde Park Landfill, and the North Tonawanda, Louisiana, and Washington sites. No tonnage estimates are available.

III. COMMUNITY BACKGROUND

A. Community Profile

The City of Niagara Falls is highly industrialized. Located on the Niagara River north of Buffalo, the city lies within a major petrochemical manufacturing area. Many major U.S. petrochemical corporations have facilities in the area, including E.I. DuPont de Nemours Co. (DuPont) and the Olin Corporation. According to 1980 census figures, the city's population was estimated to be 71,000. A large percentage of the region's population works in industries located in the immediate area. Niagara Falls has a traditional economic base related to manufacturing. This base has been eroding, however, due in part to foreign competition and the nationwide decline in manufacturing.

Most residents of Niagara Falls are very aware of hazardous waste issues because of the extensive media coverage of several local hazardous waste sites listed on the National Priorities List (NPL). (The NPL is the federal list of hazardous waste sites that are eligible for investigation and cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 -- more commonly referred to as "Superfund.") In the Niagara Falls area, five sites have been included on the NPL: Love Canal, Hyde Park Landfill, 102nd Street Landfill, Niagara County Refuse, and S-Area. Occidental Chemical Corporation has been listed as one of the potentially responsible parties at several of these sites. Potentially responsible parties are those generators, transporters, and facility owners and operators that EPA believes may be responsible for contributing to a hazardous waste site.

B. Description of Public Involvement

The long history of hazardous waste sites in the area has given rise to the organization of numerous citizen groups whose goals are to identify concerns about hazardous waste issues and voice these concerns. At the local level, citizen groups that have been actively involved with the proposed Occidental permit include:

- LaSalle and Niagara Demand;
- Ecumenical Task Force;
- Great Lakes United; and
- Campaign to Save Niagara.

These citizen groups, along with numerous unaffiliated local residents, have participated in a variety of activities related to proposed Occidental permits, including public meetings, public availability sessions, and a workshop on incineration -- all conducted by EPA or NYSDEC in Niagara Falls. These local groups also have submitted testimony to NYSDEC on the permit application and DEIS and, along with individual residents, have written many letters to the local newspapers regarding the Occidental permit application.

The Occidental application also has drawn the interest of the national environmental organization Greenpeace. Greenpeace members have conducted press briefings and issued news releases about the facility and have actively opposed the test burns scheduled for the plant.

IV. KEY COMMUNITY CONCERNS

The following are key concerns about the Occidental permit and permit modification applications expressed by Niagara Falls residents and officials during interviews conducted by EPA, NYSDEC, and contractor personnel in October 1986. As used below, "residents" refers to the citizens who were interviewed for the preparation of this plan rather than an absolute majority of the citizen population. It is noted again that the concerns expressed in this plan are exclusively those of the interviewees and in no way reflect or represent any EPA or NYSDEC statement of policy or opinion.

The citizens interviewed were selected by contractor personnel from a list -- prepared by NYSDEC and EPA -- of citizens who had previously expressed interest in Occidental's RCRA permit application and Environmental Impact Statement review process. Because of the extensive number of citizens identified as interested, a group of interviewees was selected that would provide a broad understanding of the community's concerns. Representatives of citizen groups, environmental organizations, local and state government, and business organizations, as well as unaffiliated community residents, were interviewed.

Most residents interviewed expressed a fundamental concern over the potential health impacts that may result from additional incineration at the Occidental facility. Many residents also voiced concern about Occidental's ability to safely manage the incineration facility. In addition, several individuals expressed concerns related to EPA and NYSDEC management of the RCRA permit process and government acceptance of an incineration technology many residents believe to be unsafe. Finally, local officials and representatives from the business community expressed concern about the possible adverse economic and environmental implications of denying the permit modification to incinerate NAPL wastes. All of these issues are discussed in detail below.

A. Potential Health Impacts

Many residents and health officials believe that the DEIS prepared for the test burns and long-term incineration of wastes at Occidental does not include an adequate database of the existing ambient air conditions in the area. These residents and health officials believe that a comprehensive ambient air database for the Niagara Falls area is necessary to measure the cumulative impacts of the proposed new emissions from the Occidental facility.

Residents, the Mayor, and public health officials further believe that, because Niagara Falls is a heavily industrialized area, the area has received more than its share of wastes; they are therefore opposed to the idea of Occidental accepting wastes from outside the immediate vicinity. Residents believe that the proposed incineration process would further pollute the air, and they do not want to expose themselves to additional contaminants in order to solve other states' toxic waste problems.

In addition, some residents and health officials believe that the location of the Occidental facility poses particular safety problems. Because the Occidental facility is located in a highly populated area, these individuals see the potential for a significant accident during transport of hazardous wastes to the facility.

B. Occidental's Ability to Handle Toxic Substances

Many residents expressed a lack of confidence in Occidental's ability to manage the facility's incinerator safely, take the necessary actions to correct any problems as they occur, and provide the community complete and timely information about facility activities. Residents stated that these concerns are a direct result of Occidental's performance at other toxic waste sites in the region (i.e., Love Canal, 102nd Street, and the S-Area site). At

these sites, residents believe, the company did not adequately protect public health in its production, disposal, and incineration of toxic wastes. Residents point out, for example, that Occidental undertook no voluntary cleanup action at Hyde Park and acted only when forced to by court order. Residents believe Occidental has not handled its current responsibilities adequately and are concerned about its handling of an incineration facility with wastes that are even more toxic than those the facility is currently licensed to incinerate under Occidental's existing Part 373 permit.

C. EPA and NYSDEC Management of the RCRA Process

Local officials and residents are concerned about the thoroughness of EPA's and NYSDEC's review of Occidental's application and the agencies' monitoring procedures for the facility. These concerns are based upon a belief that the permit and permit modification applications are driven partially by the Settlement Agreement for the cleanup of the Hyde Park Landfill. Because no other viable alternative for the disposal of NAPL wastes from the Hyde Park site has been identified, they further believe that EPA and NYSDEC will approve Occidental's application for a permit modification regardless of health and safety concerns in order to meet an overriding problem (i.e., the cleanup of the Hyde Park Landfill). In addition, several residents are concerned that the RCRA application process provides state and federal government technical assistance to the applicant at an early stage in the permit process, while residents receive no technical assistance and are not brought into the permit process until a much later stage.

Residents and local officials also stated that NYSDEC and EPA officials have not been as responsive to the community's concerns as residents would like. Residents stated during interviews that no easily understandable, factual information is currently available on Occidental's permit application, the RCRA process, or the public involvement process under RCRA and the New York State Environmental Quality Review Act (SEQR).

Although EPA and NYSDEC have held many public meetings in the area to discuss the Occidental facility and other area sites, some residents complained that the great number of public meetings made it difficult to attend all of the meetings and to get a complete picture of the activities at Occidental and how they might relate to other hazardous waste sites in the area. In addition, many of those interviewed expressed frustration with the following aspects of the existing public involvement techniques:

- Inadequate notification of public meetings;
- Incomplete identification of subject matter in public meeting notices;
- Inadequately prepared agency representatives at public meetings;
- Insufficient opportunity for two-way dialogue at public meetings and in the overall public involvement program for the RCRA permitting process; and

- Inadequate follow-up to citizen inquiries.

Several residents contrasted their frustrations with the RCRA public involvement process at Occidental with the efficient, courteous follow-up provided by the NYSDEC public information office at Love Canal. In addition, local officials expressed a desire to receive, from both EPA and NYSDEC, direct information on all technical and legal milestones relative to the Occidental site either prior to or simultaneously with release of information to the general public.

D. Safety of Occidental Incineration Technology

Many residents expressed concern that the incineration technology proposed at the Occidental facility has not been demonstrated adequately. These residents and local officials believe that EPA and NYSDEC, in coordination with interested citizens, should examine alternative technologies that might be applicable for handling the area's wastes. For example, some citizens expressed an interest in innovative technologies being considered at the Love Canal site.

E. Economic Implications of Permit Denial

Some local officials and local business leaders expressed concern that, if Occidental's permit modification to incinerate NAPL waste were denied, it would hamper the cleanup of the area's other hazardous waste sites. These local officials and members of the business community believe that an efficient and timely cleanup of Niagara Falls' hazardous waste sites is necessary to maintain and improve the area's business climate.

V. OBJECTIVES OF THE PUBLIC INVOLVEMENT PROGRAM

EPA and NYSDEC must involve both residents and local officials in order to implement an effective public involvement program at Occidental. The plan must seek involvement of both those "active" residents who already have a strong understanding of the RCRA and SEQR processes as well as those residents who are less knowledgeable and are frustrated by the complex and time-consuming procedures of those processes. The objectives below are specifically aimed at meeting the needs of both residents and local officials interested in participating in the federal and state permitting processes.

A. Clarify the Roles of EPA, NYSDEC, and Occidental Chemical Corporation in the Public Involvement Program

Statements made by residents indicate that confusion currently exists as to which organization has responsibility for particular functions in the permitting process. By differentiating these functions and clarifying EPA's, NYSDEC's, and Occidental's roles, the agencies will help the community understand what is -- and what is not -- under each agency's jurisdiction. The community will then be in a better position to know what it can expect from each of these organizations in addressing its concerns. A clear definition of roles will also help prevent erroneous expectations about EPA or NYSDEC responsibilities in the permitting process. For instance, EPA should

clarify that, although NYSDEC has had responsibility for regulating Occidental under its existing permit, EPA is currently responsible for regulating the incineration of NAPL wastes because of requirements under the Toxic Substances Control Act (TSCA) as well as requirements newly established under the Hazardous and Solid Waste Amendments of 1984 amending RCRA. NYSDEC should clarify its responsibility for the Environmental Impact Statement and many of the public involvement activities. Both agencies should make it known that while they have the authority to regulate new and existing hazardous waste management facilities, they are not responsible for finding or approving sites for new facilities. Similarly, Occidental's role as the applicant, in all terms of initiating the permitting process and responding to agency requests, should be clearly delineated. Differentiating among these functions and explaining the responsibilities of various entities in the permitting process can help resolve residents' confusion.

B. Establish Specific Mechanisms for Receiving and Responding to Public Comments and Questions

Currently, residents are not sure whom they can contact for answers to their questions. Many of the residents interviewed claim that questions at public meetings have not been handled adequately and that phone calls and letters to both EPA and NYSDEC have gone unanswered. Providing residents with a single contact who can answer their questions, follow up on requests for information, and provide the names of others to contact if they need further assistance will help assure residents that the agencies are responsive to their requests. Prompt, knowledgeable responses to questions and comments will demonstrate to residents that EPA and NYSDEC are devoting significant attention to the public's concerns regarding current and proposed operations at Occidental and that the agencies are fully capable of evaluating the technical aspects of the permit and permit modification applications.

C. Ensure that Sufficient, Accurate Information Is Available on Public Participation in the Permit Application Review Process

Residents need clear and concise information to know what opportunities exist for public participation and to understand key differences between the Superfund and RCRA programs. To minimize confusion, EPA and NYSDEC can provide residents with an understanding of the information that is most relevant to the RCRA permitting and SEQR Environmental Impact Statement review process and the most useful ways of providing input to the agencies involved.

D. Improve the Effectiveness of Existing Public Participation Techniques

Although residents and local officials are well aware of the extraordinary resources contributed by EPA and NYSDEC to provide public information and participation in both the Superfund and RCRA process, as evidenced by the many public meetings that have been held to discuss area hazardous waste sites and facilities, there is a general consensus that many of the public participation techniques currently used to meet these objectives are no longer effective. While RCRA and New York's SEQR regulations require a certain number of public meetings or hearings as part of the public involvement program for permitting, EPA and/or NYSDEC should schedule additional public meetings only when the level of community interest warrants them. EPA and NYSDEC should strive to make required public meetings and hearings more effective by, for example, finding the best avenues for advertising the meetings, providing site

information to interested citizens before the meeting, preparing answers in advance to questions likely to be raised at the meeting, and, where possible, combining EPA and NYSDEC hearings into a single, combined hearing. (Techniques for improving the effectiveness of public meetings are discussed in Section VI.)

E. Establish a Long-term, Coordinated Approach to Provide Public Information on Hazardous Waste Issues in the Niagara Falls Area

In recent years, residents of the Niagara Falls area have been confronted with the problems of several area hazardous waste sites and have found a need to understand the various statutes and regulations that EPA and NYSDEC use to address hazardous waste problems. A coordinated interagency public information approach should be developed to aid citizens of the Niagara Falls area in understanding the complex issues involved in solving the area's hazardous waste issues. EPA and NYSDEC may want to consider involving the State University of New York at Buffalo (SUNY Buffalo) in this process. Coordinating informational presentations and workshops with the University could help educate local citizens on the process for permitting treatment facilities, as well as hazardous waste issues in general, in a manner consistent with the University's role in the community.

VI. SUGGESTED PUBLIC INVOLVEMENT TECHNIQUES AND SCHEDULE

Specific public involvement activities related to the review of Occidental's permit and permit modification applications are required by Title 40 of the Code of Federal Regulations, Part 124, Subpart A and Parts 265.112(d) and 265.118(d); and by the New York Environmental Conservation Law 70-0107 Parts 621 and 624. This section describes the required activities³ (marked with an asterisk), as well as other activities that are designed to fulfill the objectives described in Section V of this plan. Both the required and suggested activities are described below and listed in Exhibit 4 at the end of this section. In addition to the list of activities, Exhibit 4 includes a proposed schedule, the responsible organization, and the objectives addressed by each activity. The proposed schedule is based on technical milestones of the permit process and court-ordered deadlines, such as the completion of the trial burns. The activities are listed in the proposed order of their implementation.

³ Pursuant to the April 30, 1982 Settlement Agreement between Occidental and the U.S. Department of Justice (DOJ) and the resulting permit applications described above, Occidental, EPA, and NYSDEC officials have agreed to the "Stipulation and Order on Procedures Concerning Incineration of Hyde Park NAPL" which establishes a schedule, as revised, for required activities for public comment and participation in accordance with New York Environmental Conservation Law 8-0113 Part 617.

1. Designate a Contact Person as the Primary Source of Public Information

A single contact person, who is readily accessible to citizens and responsible for ensuring prompt response to their inquiries will demonstrate EPA's and NYSDEC's commitment to a coordinated public involvement process. Both agencies should agree on a single contact person and commit resources necessary for the person to accomplish the goal of responding to citizen inquiries. This individual should be charged with coordinating responses to written inquiries, as well as those inquiries raised at public meetings, in a timely manner, and establishing a written record of these responses.

John Anderson

Schedule: A central contact person should be identified as soon as possible -- by September 15, 1987 at the latest -- as a focal point for all inquiries on the permit review process for the Occidental facility.

2. Establish and Maintain Accessible Information Repositories*

RCRA regulations require that one information repository be established in the facility community and that it contain the administrative record for a RCRA draft permit, including the permit application. In this instance, however, the level of citizen involvement and the nature of the citizen concern warrant the establishment of several information repositories in easily accessible locations -- for example, in the neighborhoods of LaSalle and downtown Niagara Falls. Establishing more than one repository will ensure that information will be available to interested citizens and residents who have already demonstrated a substantial level of concern about the facility. The master repository will be located at the EPA Public Information Office in Niagara Falls with a satellite repository in the LaSalle Branch Public Library. (See Appendix B for locations and hours of operation.) The repositories should contain copies of the permit application, any draft permit(s) that are developed, fact sheet(s), information on RCRA, and information on the designated primary contact. These documents can provide residents with answers to many of their current questions on the RCRA process and on details of the permit application itself. Providing relevant documents in easily accessible locations will make it easier for residents to review available information and to participate knowledgeably in the permit application review process. In addition, EPA and NYSDEC should make an effort to notify all key local officials of documents placed in the repository, as local officials expressed a desire to be provided with relevant information either prior to or simultaneously with its release to the general public.

Schedule: It is important that the information repositories be established as soon as appropriate locations are found. Establishing the repositories before the notice of intent to deny is issued or a draft permit is released will give residents time to evaluate relevant information before a decision is made. Immediate

* Activities required by RCRA public involvement regulations in Title 40 of the Code of Federal Regulations, Part 124, Subpart A and Parts 265.112(d) and 265.118(d).

establishment of the repositories will help assure residents of EPA's and NYSDEC's intent to encourage public comment on the decision to approve or deny the permit application. If possible, therefore, the information repositories should be established by September 15, 1987. N.F.

3. Develop and Distribute RCRA Fact Sheet(s) on the Permit Application*

RCRA regulations require that a fact sheet be prepared and distributed if a draft permit is developed. In the case of the Occidental facility, where concerns are diverse and are often intertwined with concerns over area Superfund sites, it may be useful to prepare a packet of shorter fact sheets that cover several topics. These fact sheets can be used to clarify points of confusion and to provide information on the best possible ways for parties interested in the permit application to participate in the permit review process. The fact sheets could explain, for example, the operation of the incineration technology proposed to be used at Occidental and other known technologies; such information would try to address citizen concerns over the relative safety of the Occidental incineration technology as described in Section IV.D. above. Some of the fact sheets may cover topics that are relevant to other sites in the area or State, such as the relationship and differences between the RCRA permitting process and the Superfund cleanup process. Clarifying this relationship, and providing information on EPA and NYSDEC plans and progress on area sites will aid in addressing local government and business concerns that disapproval of the application would slow down the cleanup of area hazardous waste sites.

It is important to distribute the fact sheets as one package to ensure that residents receive all of the essential information, that no one receives conflicting information from different sources, and that residents have a complete set of materials to which they can refer. One advantage of preparing separate fact sheets is that, in doing so, NYSDEC will be developing generic pieces that will be useful at other sites. The generic fact sheets can serve as part of the "permanent interagency public information approach" identified as a desirable goal under Section V.E. above. This packet of fact sheets can be organized so that specific fact sheets on issues related to Occidental can be combined with fact sheets on topics relevant to many RCRA sites. Suggested topics for individual fact sheets are listed below:

- The history of the site and of the Occidental facility's industrial operations in the community;
- The status and schedule of the permit application and the dates for the public comment period;
- The roles of EPA, NYSDEC, and Occidental, including an explanation of who is responsible for various activities in the application and review process;
- The RCRA permitting process, including:
 - The legal and regulatory requirements of the permit program;

- An extensive glossary explaining the technical vocabulary used in the application; and
 - The public involvement activities designed to provide residents with opportunities to meet with EPA and NYSDEC to ask questions and provide comments.
- An explanation of the test burns;
 - An explanation of incineration technology;
 - An explanation of how RCRA relates to other hazardous waste management programs, including the relationship with Superfund and the Toxic Substances Control Act (TSCA).

Schedule: The packet of fact sheets should be distributed to a mailing list of individuals interested in the site and placed in the information repositories as soon as possible, and before a notice of intent to deny is issued or a draft permit is developed. The mailing list should include interested citizens, and local officials of both Niagara Falls, New York and Niagara Falls, Ontario, Canada. The fact that NYSDEC has begun developing generic fact sheets will ease the burden of this tight schedule. Providing this information early will demonstrate to the community EPA's and NYSDEC's strong interest in providing information on the permit application and the schedule for interacting with the public and, thereby, counteract the present feeling by some individuals that both agencies are unresponsive.

*2 Draft Permit
in 12/87*

4. Newspaper Column

A newspaper column published in local and regional newspapers could provide a regular forum for: informing the public on the status of the permit application, explaining public notices, and discussing the significant milestones that occur in a permit review process. Summaries of these milestones (such as the test burns) as well as of past meetings could help keep the public up to date. The newspaper column also could include the information covered in the update letter suggested below. This method of broad coverage would help to ensure that all interested citizens are fully informed. Appendix C lists newspapers read by area residents.

not needed

Schedule: The column should be scheduled at regular intervals so citizens know when to look for it. By discussing the site in a journalistic information style, EPA and NYSDEC will ensure that their actions and planned events will be better understood.

5. Public Information Meeting

According to the "Stipulation and Order on Procedures Concerning Incineration of Hyde Park NAPL" (Stipulation), EPA and NYSDEC must hold a public information meeting prior to the NAPL test burn that is scheduled for the fall. Because the NAPL test burn is a precursor to an application to

modify permits that are still under review, confusion over the relationship of this meeting to the permit review process is likely to occur. EPA and NYSDEC will need to explain why the Stipulation requires the incineration of NAPL wastes to be treated as a modification to permits which have yet to be renewed or issued and why a test burn for NAPL wastes is being authorized before the permit review process has been concluded. This meeting is also likely to be a focal point for citizen concern over the incineration of wastes being brought in from other states.

Schedule: The meeting should be held in September prior to the NAPL test burn.

6. Develop and Distribute Information Update Letter

After the packet of fact sheets has been distributed to the site mailing list and information repositories, and the test burns completed, EPA and NYSDEC will release a short letter to residents, officials (including U.S. and Canadian local officials in the Niagara Falls area), and the media if new developments occur that would affect the public's participation in the permitting process. The letter could announce the schedule for releasing a notice of intent to issue or deny a draft permit, the dates for the public comment period, and/or the results of the test burns. This follow-up to the packet of fact sheets will facilitate public participation in the permit process by providing interested parties with the information necessary to participate meaningfully in the public comment period.

Schedule: The letter should be distributed, if possible, by the end of October 1987. This will show residents that EPA and NYSDEC want to keep them informed of activities related to the Occidental permit application.

7. Public Comment Period on the Draft Permit or Notice of Intent to Deny*

Applicable RCRA and New York State Environmental Conservation Law (ECL) regulations require that (1) a forty-five day public comment period be provided on a draft permit or notice of intent to deny, and (2) notice of the release of a draft permit be published in a major local newspaper and broadcast over local radio stations. In an effort to further ensure active citizen participation, EPA and NYSDEC may wish to expand the public comment period to sixty days. In addition, a clear and concise description of any permit decisions, as well as when further information on the project will be available, should be prominently displayed in local newspapers and provided to local radio and television stations. Due to the extensive citizen interest in this permit, EPA and NYSDEC will provide notice to the media in Buffalo as well as Niagara Falls.

Although it is not required, EPA and NYSDEC should also distribute a press release announcing the beginning of the public comment period that tells residents where to send their comments. Ensuring that residents understand how and when to comment and the purpose of the comment period will demonstrate the agencies' commitment to listen to residents and respond to their questions.

Schedule: RCRA regulations require that the public comment period be held immediately after the release of a notice of intent to issue or deny a draft permit. ✓

8. Public Hearing(s) on Notice of Intent to Deny or Release of a Draft Permit (if requested*)

A public hearing is required by RCRA if sufficient, appropriate requests for a hearing are submitted during the comment period. Notice of the public hearing must be published thirty days prior to the meeting in the local newspaper and in the New York State Environmental Notice Bulletin. To ensure that adequate notification is given, clear and concise descriptions of the issues to be addressed at public hearings should be included. Notices may be in the form of letters, newspaper advertisements, posters, or other graphic formats. Using eye-catching headlines or photographs, or personalizing issues, helps entice the public to read them. Notices should explain why it is important to attend the hearing and what influence or responsibility attendees will have. The notice should highlight issues to be covered at the hearing, decisions to be made, and the potential impact of decisions.

RCRA regulations require that the hearing be either tape recorded or transcribed. (At present, it has not been decided whether EPA and NYSDEC will hold public hearings separately or combine them.) In addition to the hearing on a draft permit required by RCRA, ECL regulations require that an adjudicatory hearing be conducted by NYSDEC before an administrative law judge if the issues warrant it. The transcript for any public or adjudicatory hearing should be placed in the information repositories. Additionally, an opportunity for residents to participate in a question and answer session could be provided as opposed to a session in which testimony is given without response. EPA and NYSDEC officials should participate in a dry run in order to ensure that their responses are clear, concise, well-coordinated, and easily understood. Inquiries and questions that cannot be adequately answered at a hearing should be addressed in the written response to comments described below.

Schedule: Although the date is not specified by law, holding the public hearing near the end of the comment period will provide residents with almost the entire 45-day comment period to study the permit and prepare their comments. Therefore, the public hearing should be held near the end of the public comment period. According to the Stipulation, any adjudicatory hearing will be held by NYSDEC after the close of the comment period. ✓

9. Responsiveness Summary*

RCRA regulations require a written response to written and oral comments received during the comment period and public hearing(s). The responsiveness summary should address agency actions in response to public comments. This effort could be coordinated by the primary contact person suggested above. The release of a responsiveness summary will indicate to the public how their comments have affected agency decisions and will give decision-makers an overview of the main areas of public concern. The document also will inform the public of their collective actions and interests.

Schedule: The responsiveness summary should be released as soon as possible after the close of the public comment period. By responding quickly, EPA and NYSDEC can demonstrate their interest in public involvement and its impact on the permit review process. ✓

10*,11*,12*, and 13*. Fact Sheet, Public Comment Period, Public Hearing(s), and Responsiveness Summary on Permit Modification

Assuming Occidental is issued all permits and authorizations to store and incinerate process wastes and assuming the NAPL test burn is conducted and produces appropriate results, Occidental is required by the Stipulation to apply for a permit modification for its proposal to incinerate NAPL wastes from the Hyde Park Landfill and other wastes from Occidental facilities in Washington, Louisiana, and New York. RCRA regulations require a permit modification of this type to be treated in most respects as if it were another permit application with the same requirements for a fact sheet, draft permit, public comment period, public hearing (if requested), and responsiveness summary. The review of the permit modification application will also include the finalization of the Environmental Impact Statement and (if warranted) a NYSDEC adjudicatory hearing as required by SEQRA. The Stipulation makes clear that these events and associated public involvement activities are to take place subsequent to final determination of the currently pending permit application.

Schedule: While the Stipulation determines the order of events, the schedule for their completion is currently under revision by the U.S. District Court. When this revised schedule is released it will be appended to this plan. ✓

EXHIBIT 4

PUBLIC INVOLVEMENT ACTIVITIES FOR
THE OCCIDENTAL CHEMICAL CORPORATION FACILITY

<u>ACTIVITY</u>	<u>OBJECTIVE SATISFIED⁴</u>	<u>PROPOSED IMPLEMENTING ORGANIZATIONS⁵</u>	<u>PROPOSED SCHEDULE</u>
1. Primary Contact Person	B,C	NYSDEC (Reg. IX)	Designated by September 15, 1987
2. Information Repository	A,C,D	EPA/NYSDEC (Reg. IX)	Established by September 15, 1987
3. Fact Sheet(s)	A,C,D,E	NYSDEC (Albany and Reg. IX)	Prior to release of draft permit or tentative decision to deny
4. Newspaper Column	A,B,C,E	NYSDEC (Albany and Reg. IX)	As soon as logistics can be coordinated
5. Public Meeting	A,B,C	EPA/NYSDEC (Albany and Reg. IX)	Before NAPL test burn
6. Update Letter	B,C	NYSDEC (Reg. IX)	October 15, 1987
7. Public Comment Period	B,C,D	EPA/NYSDEC (Reg. IX)	After release of draft permit or tentative deci- sion to deny

⁴ Objectives are as follows:

A. Clarify the roles of EPA, NYSDEC and Occidental Chemical Corporation in the public involvement program (for the remainder of the permit process).

B. Establish specific mechanisms for receiving and responding to public comments and questions.

C. Ensure that sufficient, accurate information is available on public participation in the permit review process.

D. Improve the effectiveness of existing public participation techniques.

E. Establish a long term, coordinated system to provide public information on the hazardous waste issues in the Niagara Falls area.

⁵ NYSDEC has ten regional offices; the director of each is authorized to review RCRA permit applications. The NYSDEC Region IX office is in Buffalo.

EXHIBIT 4
(Continued)

PUBLIC INVOLVEMENT ACTIVITIES FOR
THE OCCIDENTAL CHEMICAL CORPORATION FACILITY

<u>ACTIVITY</u>	<u>OBJECTIVE SATISFIED</u>	<u>PROPOSED IMPLEMENTING ORGANIZATIONS</u>	<u>PROPOSED SCHEDULE</u>
8. Public Hearing(s) ⁶	B,D	EPA/NYSDEC (Albany and Reg. IX)	At the end of the public comment period
9. Responsiveness Summary	B,C	EPA/NYSDEC	After close of the public comment period
10. Fact Sheet	A,C,E	EPA/NYSDEC	Prior to release of draft permit (modification) or tentative deci- sion to deny
11. Public Comment Period	B,C,D	EPA/NYSDEC (Albany and Reg. IX)	After release of draft permit (modification) or tentative deci- sion to deny
12. Public Hearing(s) ⁶	B,D	EPA/NYSDEC (Albany and Reg. IX)	At the end of the public comment period
13. Responsiveness Summary	B,C	EPA/NYSDEC	After close of the public comment period

⁶ In addition to a public hearing, NYSDEC will conduct an adjudicatory hearing after the close of the comment period, unless the issues do not warrant it.

APPENDIX A

A BRIEF OVERVIEW OF FEDERAL AND NEW YORK STATE LAWS GOVERNING HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Resource Conservation and Recovery Act (Federal)

A Resource Conservation and Recovery Act Subtitle C permit allows an operator to run a hazardous waste treatment, storage, or disposal facility under the supervision of either EPA or an authorized state agency. To apply for a permit, the operator submits a permit application to EPA, or to the state if the state is authorized. (New York is partially authorized to manage the RCRA program, including permit issuance which involves most RCRA requirements. The permit application must also be submitted to EPA to meet the RCRA requirements not managed by New York State.) The permit application is divided into two parts, A and B. Part A is a short standard form that collects general information about a facility. Part B of the permit application is much more extensive than Part A. It requires the owner or operator to supply detailed and highly technical information, e.g., chemical and physical analyses of the hazardous waste to be handled at the facility. After the facility operator submits the permit application, EPA and/or the State then notifies the operator as to what, if any, additional information is needed to complete the application. Once all the information is supplied, EPA and/or the State writes a draft permit or notifies the operator that the agency intends to deny the application. After a draft permit is released or a notice of intent to deny is issued and a public comment period of 45 days has concluded, EPA and/or the State can take one of three actions: (1) issue the final permit, (2) modify the draft permit and reissue it, or (3) deny the application. A final decision of issuance or denial can subsequently be appealed.

Toxic Substance Control Act (Federal)¹

The Toxic Substance Control Act (TSCA), enacted into law in 1976 and amended in 1981, is designed to protect human health and the environment from chemical substances and mixtures which may present an unreasonable risk from exposure. The PCB test burn at the Occidental plant, for example, is regulated under TSCA. TSCA requires manufacturers, processors, and distributors to inform EPA if they have reason to suspect that a chemical substance or mixture presents a risk of injury to health or the environment. TSCA includes numerous enforcement provisions to ensure compliance with its requirements including inspections, subpoenas, civil penalties, civil actions, criminal penalties, citizen suits, and citizen petitions. Any citizen may commence a civil action against any person any government or agency (to the extent permitted under the eleventh amendment to the Constitution of the United States) who is alleged to be in violation of this Act, or against the Administrator of the EPA to compel the Administrator to perform any act or duty under this Act which is not discretionary.

¹ Source: Environmental Reporter, "Toxic Substance Control Act", The Bureau of National Affairs, Inc., p. 71:8501.

Environmental Conservation Law (New York State)

The Environmental Conservation Law (ECL) is a compendium of legislation in the State of New York governing the protection of the environment that was passed in 1975 to incorporate environmental factors into the early planning stages of development and construction projects. Article 8 of the ECL, the State Environmental Quality Review (SEQR), delineates the procedures for reviewing and processing permit applications governed by the ELC and establishes requirements for public involvement in the permitting process.

Two important regulations established under Article 8 are Part 617 "Environmental Quality Review" and Part 621 "Uniform Procedures". Part 617 establishes the procedures under SEQR. SEQR is designed to incorporate the consideration of environmental factors into the planning, review, and decision-making process of State, regional, and local government agencies. All proposed projects that may have a significant effect on the environment are required to submit an Environmental Impact Statement (EIS). This statement must examine the effects on the environment that would result from the project, compare the relative effects and benefits of alternatives, and respond to all substantive comments from the affected public. This process establishes a formula for a planning process that blends a suitable balance of social, economic, and environmental factors. Part 621 establishes the procedures for processing project applications under the ELC. These procedures may contain public participation elements depending on the nature and scope of the applicant's project. These regulations also establish the structure of the SEQR review and the EIS process during the permit review.

Part 373 of the Uniform Procedures Code for the State of New York (New York State)

Part 373, which encompasses the majority of RCRA permitting requirements and standards, establishes New York State's hazardous waste permit program. This legislation predates RCRA and governs the existing NYSDEC-issued permit for the Occidental facility.

APPENDIX B

SUGGESTED LOCATIONS FOR INFORMATION REPOSITORIES

The following are locations where a permanent interagency public information system, incorporating information on all area hazardous waste sites, could be developed:

EPA Public Information Office
345 3rd Street
Niagara Falls, New York 14303
(716) 285-8842
Hours: Monday-Friday 9 am to 5 pm

LaSalle Public Library
8728 Buffalo Avenue
Niagara, New York 14304
(716) 283-8309
Hours: Monday, Tuesday, Thursday, Friday 1 pm to 5 pm
Wednesday 1 pm to 9 pm

APPENDIX C
MEDIA CONTACTS

Newspapers

Niagara Gazette (716) 282-2311
310 Niagara Street
Niagara Falls, NY 14303

Buffalo News (716) 849-3434
1 News Plaza
P.O. Box 100
Buffalo, NY 14240

Radio

WJLJ-AM (716) 285-5795
Niagara Frontier Broadcasting Corporation
1224 Main Street
Niagara Falls, NY 14301

WBEN-AM/FM (716) 876-0930
1077 Elmwood Avenue
Buffalo, NY 14207

WBUF-FM (716) 882-4300
715 Delaware Avenue
Buffalo, NY 14209

WEBR-AM (All News) (716) 886-0970
23 North Street
Buffalo, NY 14202

Television

WKBW-Channel 7 (ABC) (716) 845-6100
7 Broadcast Plaza
Buffalo, NY 14202

WIVB-Channel 4 (CBS) (716) 874-4410
2077 Elmwood Avenue
Buffalo, NY 14207

WGRZ-Channel 2 (NBC) (716) 856-1414
259 Delaware Avenue
Buffalo, NY 14202

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**FINAL PUBLIC INVOLVEMENT PLAN
OCCIDENTAL CHEMICAL CORPORATION FACILITY
NIAGARA FALLS, NEW YORK**

I. OVERVIEW OF PUBLIC INVOLVEMENT PLAN

This public involvement plan identifies issues of community concern, sets the objectives for the public involvement program, and suggests methods for meeting those objectives regarding the Occidental Chemical Corporation's (Occidental) application for state and federal permits to store and incinerate hazardous wastes at the company's Niagara Plant facility in Niagara Falls, New York. In addition to the wastes currently being incinerated at the facility, Occidental will apply for a modification to the federal permit, if it is issued, and to the state permit, if it is renewed, to allow it to incinerate other wastes from a nearby privately-owned landfill, known as the Hyde Park Landfill, and from Occidental-owned facilities in Taft, Louisiana, Tacoma, Washington, and North Tonawanda, New York. Occidental is submitting its application to store and incinerate these wastes under the rules of the Resource Conservation and Recovery Act (RCRA) of 1976, an act giving the U.S. Environmental Protection Agency (EPA) authority to regulate the treatment, storage, and disposal of hazardous wastes, and the RCRA Hazardous and Solid Waste Amendments of 1984 (HWSA).¹

In many states, including New York, the state's environmental agency is authorized by EPA to administer parts of the RCRA program. In New York, NYSDEC administers a major portion of the RCRA hazardous waste management program. EPA administers the remainder of the program. In addition, NYSDEC administers Article 8 (State Environmental Quality Review or SEQR) of New York State's Environmental Conservation Law, which governs public involvement in the permitting process. (See Appendix A for more detail on these state statutes and programs as well as other relevant federal regulations.)

This plan outlines public involvement activities that will be conducted by the New York State Department of Environmental Conservation (NYSDEC) and U.S. EPA Region II (EPA) throughout the duration of the Occidental permit application process. Public involvement in the RCRA permitting process provides an opportunity for all potentially affected and interested parties to become informed about and involved in the permitting process. Whether the final determination is to issue or deny a permit, a public involvement program ensures that EPA and NYSDEC are kept well-informed of citizens' concerns and, thus, are better able to respond to those concerns. Such a program also may provide valuable information and ideas for EPA and NYSDEC to consider in developing permit conditions that effectively protect human health and safety and the environment, should permits be issued.

This public involvement plan consists of the following sections:

- Description of the Facility;
- Community Background;
- Key Community Concerns;
- Objectives of the Public Involvement Program; and
- Public Involvement Techniques and Schedule.

¹ Appendix A provides a brief overview of federal and New York State laws governing hazardous waste treatment, storage, and disposal facilities.

The plan also includes three brief appendices. Appendix A provides a brief overview of federal and New York State laws governing hazardous waste treatment, storage, and disposal facilities. Appendix B provides information on suggested locations for information repositories. Appendix C provides the addresses and phone numbers of media contacts.

Information for this plan was obtained during interviews conducted with residents and local officials by EPA, NYSDEC, and EPA contractor personnel in October 1986. This plan has been prepared in accordance with EPA's Guidance on Public Involvement in the RCRA Permitting Program (January 1986). Concerns expressed in this plan are those of the individuals interviewed and do not represent an EPA or NYSDEC statement of policy or opinion.

II. DESCRIPTION OF THE FACILITY

A. Location

The Occidental facility, including the plant, an incinerator area, and container and tank storage area, is located in Niagara Falls, New York (see Exhibits 1 and 2). The facility is located in a primarily industrial area along the Niagara River. Buffalo Avenue runs through the Occidental plant site, and the Robert Moses Parkway (a major thoroughfare) borders the site to the south. The S-Area site -- a landfill containing hazardous wastes deposited by the Occidental Chemical Corporation -- is located in the southeast corner of the plant property, and the Niagara Falls City Water Treatment Plant lies to the east of the S-Area, off of the plant property. Iroquois Street borders the site on the west (see Exhibit 3). A resource recovery plant, also operated by Occidental, is located on the north side of Buffalo Avenue. The residential areas of Niagara Falls lie within one half mile northeast and northwest of the site.

B. Background

Occidental Chemical Corporation (formerly the Hooker Chemical and Plastic Corporation) first began operating a chemical production plant in Niagara Falls in 1909; at present, the plant employs approximately 800 people. The facility currently manufactures organic and inorganic chemical products such as chlorine, sodium hydroxide, and phosphorous trichloride, operates an incinerator, and maintains several storage areas where the facility's hazardous process wastes are stored until their incineration or shipment offsite for treatment/disposal. Occidental currently engages in these activities under both RCRA interim status² and a NYSDEC-issued Part 373 permit.

² RCRA interim status is the authority granted by EPA to hazardous waste treatment (e.g., incineration), storage, and disposal facilities in existence prior to November 19, 1980 that governs the continued operation of such facilities until a full permit application has been completed and reviewed, and a final determination to issue or deny the permit has been made.

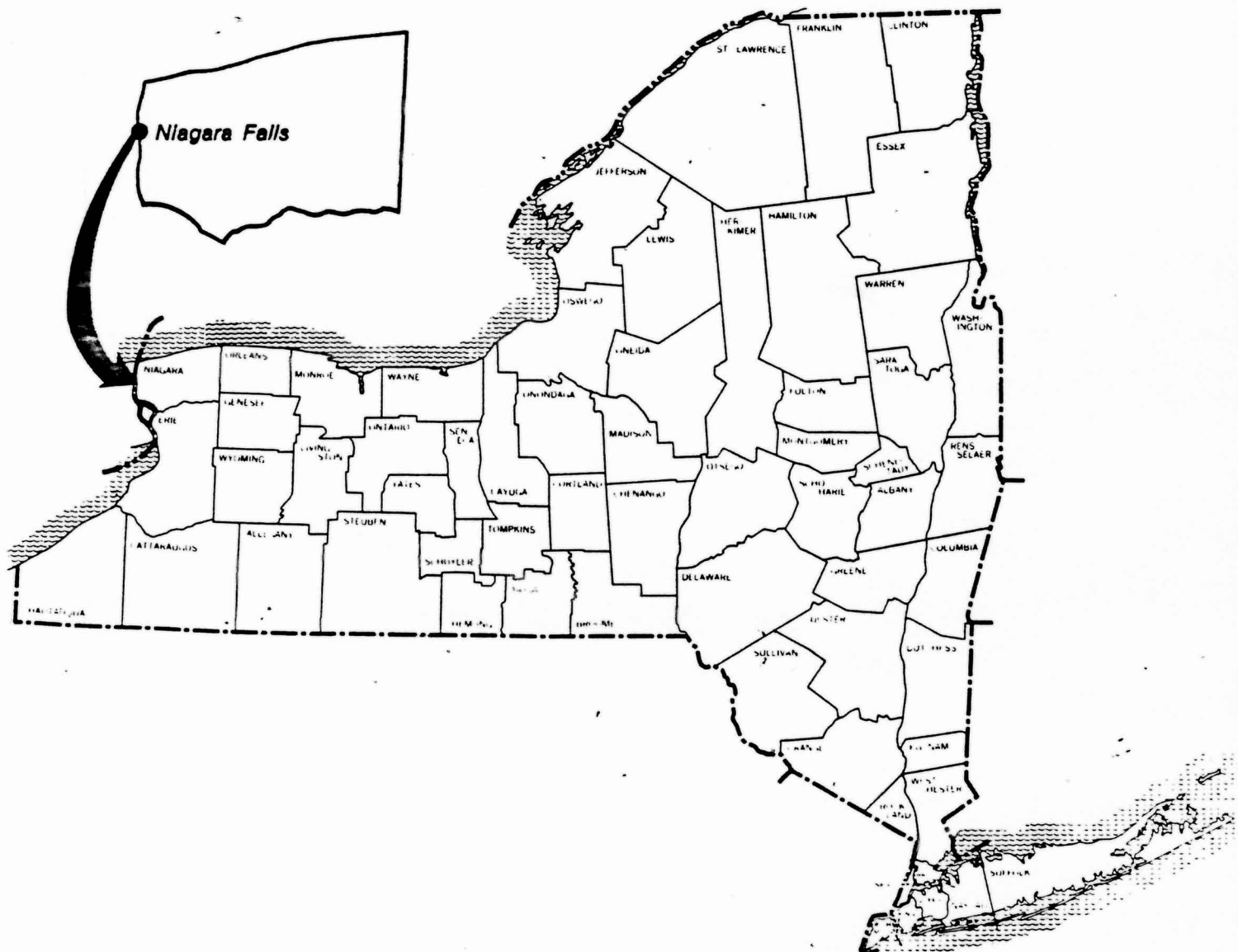


Exhibit 2
FACILITY LOCATION MAP
OCCIDENTAL CHEMICAL CORPORATION
NIAGARA FALLS, N.Y.

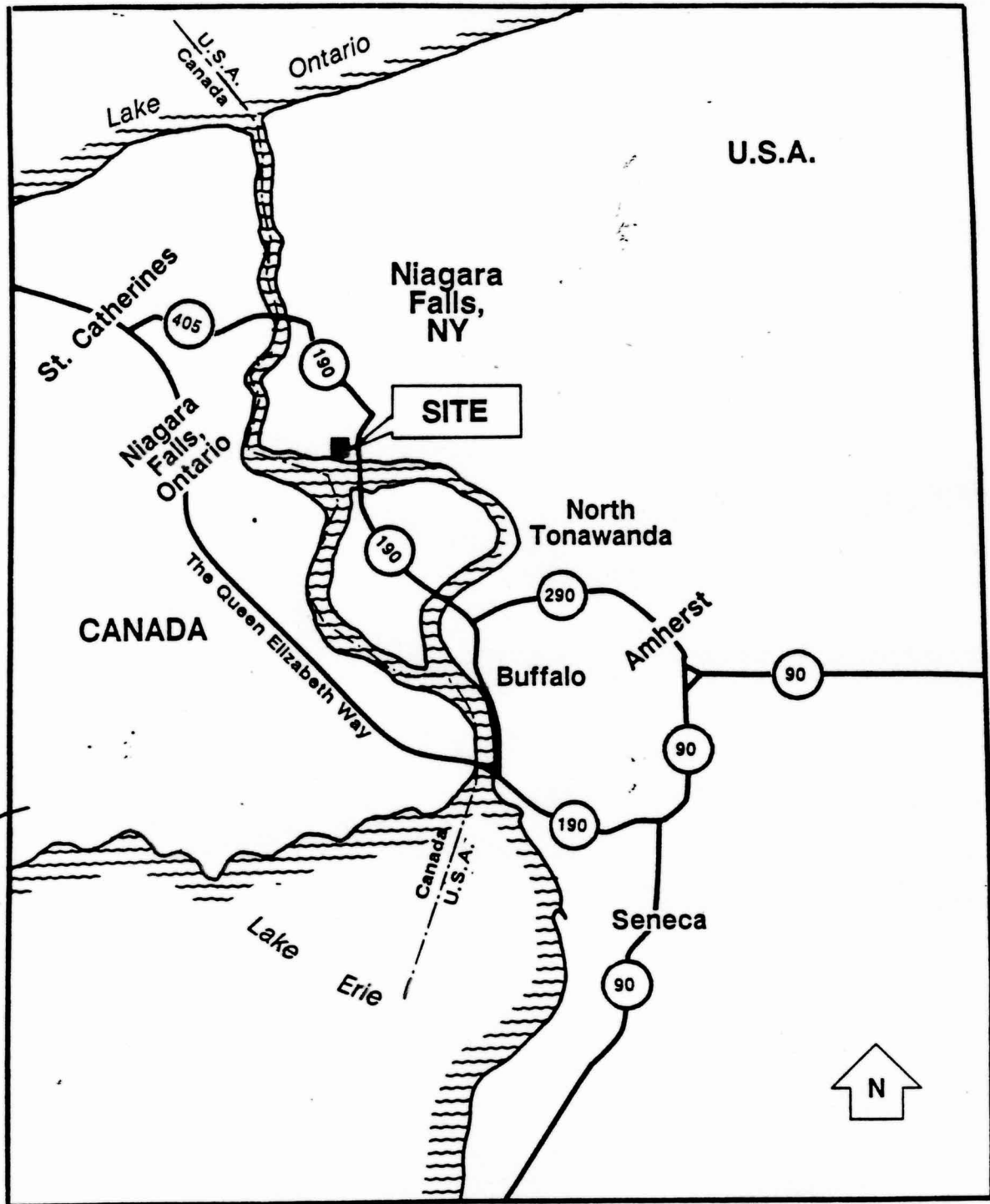
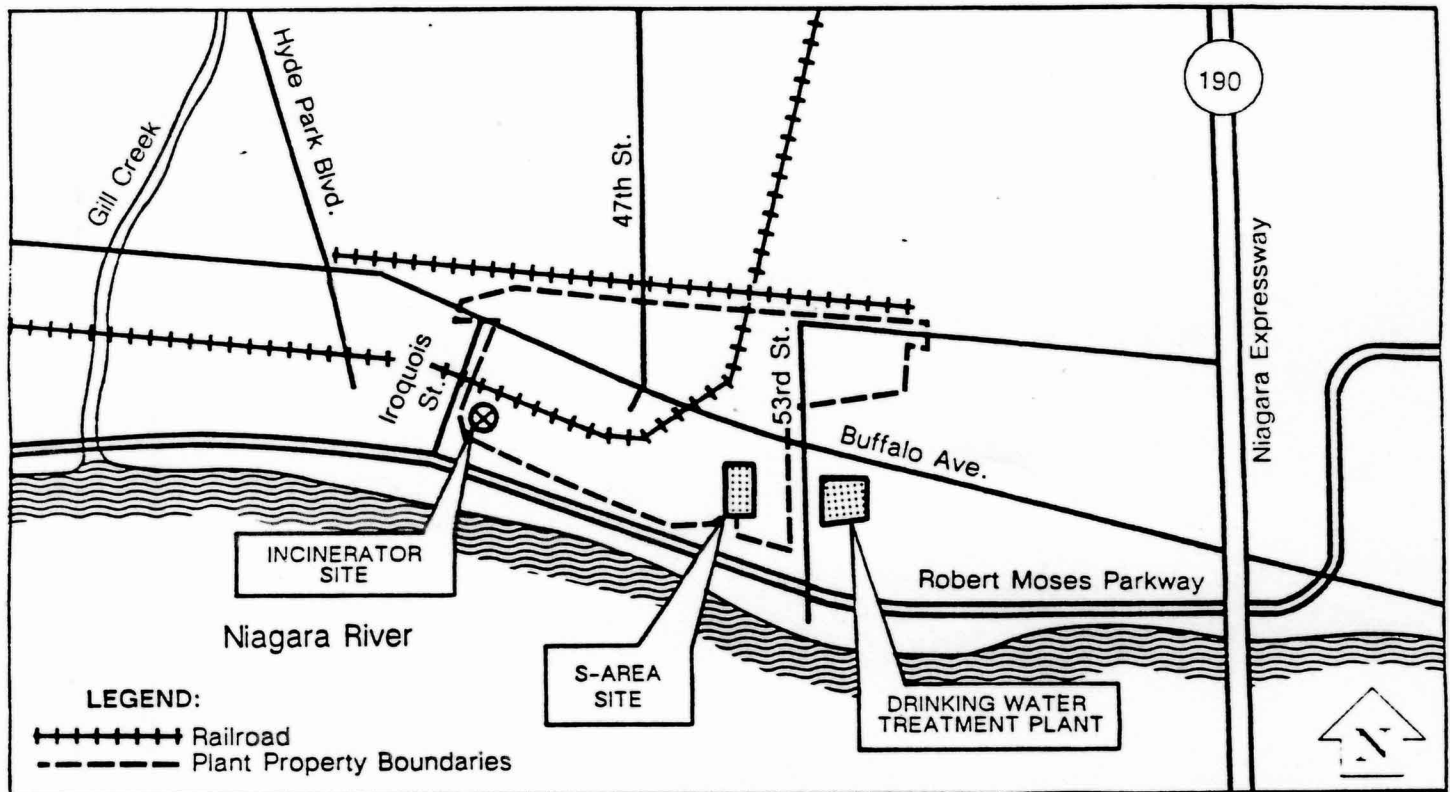


Exhibit 3
FACILITY VICINITY MAP*
OCCIDENTAL CHEMICAL CORPORATION
NIAGARA FALLS PLANT
NIAGARA FALLS, N.Y.



* Not to Scale

In March 1983, Occidental Chemical Corporation submitted a Part B RCRA permit application to EPA requesting permission to operate a hazardous waste tank and container storage area, and to incinerate hazardous wastes. This same application is being reviewed by NYSDEC to determine whether or not to renew the facility's existing Part 373 permit. Under both RCRA interim status and the existing Part 373 permit, Occidental is allowed to store and incinerate only those hazardous waste types that the plant currently produces. If Occidental's pending Part B/373 permit application is determined to be technically adequate, a draft permit will be prepared. If a final determination is made by EPA and NYSDEC to issue a permit, the states's Part 373 permit will be renewed and the RCRA interim status for the company's hazardous waste incinerator and tank and container storage facility will be upgraded to a full RCRA permit. In addition to current usage, Occidental proposes to use one of the incinerator's two combustion chambers to destroy hazardous waste generated during cleanup actions at the nearby Hyde Park Landfill and from other Occidental-owned facilities in Taft, Louisiana, Tacoma, Washington, and North Tonawanda, New York. To gain approval for this proposal, Occidental must first successfully conduct a test burn of these new wastes and apply for a modification to what would be its then-existing federal and state permits. The wastes proposed for incineration would include: polychlorinated dibenzo-p-dioxin (PCDD), polychlorinated dibenzo-p-furans (PCDF), Mirex (a pesticide), and polychlorinated biphenyls (PCBs). The first two chemicals listed are types of dioxins. Both dioxins and PCBs are more toxic than the substances currently incinerated at Occidental's facility.

The Hyde Park Landfill was used by Hooker Chemical and Plastic Corporation for disposing of hazardous waste produced by the Niagara Falls plant from 1953 to 1975. During that time, approximately 80,000 tons of hazardous materials were deposited at the site. Wastes from the landfill exist in two liquid phases -- non-aqueous phase liquids (NAPL) and aqueous phase liquids (APL). NAPL is a mixture of a wide range of organic chemicals, including dioxins and PCBs, that have relatively low solubility in water. APL is a mixture of a wide range of organic chemicals that are dissolved in water. Over seventy-five chemicals attributable to the landfill have been identified either in surface water, ground water, soil, or sediment in the vicinity of the landfill.

In 1979, the U.S. Department of Justice (DOJ) sued Occidental Chemical Corporation because these wastes were found by EPA and NYSDEC to be migrating from the landfill. Based on a subsequent agreement reached between Occidental, DOJ, and the State of New York (April 30, 1982 Settlement Agreement), Occidental is required to incinerate all NAPL waste collected by any containment or collection system at the landfill. The Settlement Agreement also requires Occidental to dispose of the APL wastes at the Hyde Park Landfill. Pursuant to this agreement, two documents, the "Stipulation on Requisite Remedial Technology" and the "Stipulation and Order on Procedures Concerning Incineration of Hyde Park NAPL" govern the treatment process for APL and NAPL wastes from Hyde Park and define a schedule for public involvement during the investigation and cleanup of the site. Occidental's permit and permit modification applications are also stipulated by the Settlement Agreement.

Occidental has been trying to obtain permission to incinerate the NAPL waste since 1982. In 1982, Occidental contracted with Chemical Waste Management Inc. (Chem Waste), a national waste disposal company, to use the Vulcanus, an ocean-going ship equipped with incineration facilities, to incinerate its waste. Chem Waste, however, was unable to obtain the EPA permit necessary to incinerate these wastes on the Vulcanus. Occidental then contracted with SCA, another large waste disposal firm, to incinerate the NAPL waste at SCA's PCB incinerator in Chicago, Illinois. After threats of a lawsuit by the State of Illinois, SCA withdrew from the contract.

Following negotiations with EPA on its permit application submitted in 1983, Occidental proposed to incinerate Hyde Park NAPL waste at its Niagara Falls incinerator. This proposal will require modifications to the permit application now under review. The proposed modifications also would allow incineration of wastes (including PCBs) from three other Occidental facilities in Louisiana, Washington, and New York. In 1985, Occidental submitted an application to EPA for a permit to conduct test burns of PCBs and NAPL waste at its Niagara Falls plant. A test burn is required as part of the technical evaluation of all hazardous waste incinerators. It consists of the controlled incineration of hazardous wastes under specific operating conditions of the incinerator. The test burn extends for a period of a few days, during which parameters (such as temperature and carbon monoxide) are monitored. Test burns for RCRA and PCB wastes were conducted for the Occidental facility between October 16, 1986 and November 10, 1986. The final test burn for NAPL waste is currently scheduled for the fall of 1987.

According to the Draft Environmental Impact Statement (DEIS) on the test burns and long-term incineration of Occidental remedial wastes (prepared by NYSDEC under SEQR regulations), fifty percent of the incinerator's capacity is currently used to incinerate process wastes from ongoing manufacturing operations. Up to fifty percent of the incinerator's capacity would be available to destroy wastes from Occidental remedial projects. Based on estimates from the DEIS, operations would consume, on average, not more than five truckloads per week of hazardous waste from the Hyde Park Landfill, and the North Tonawanda, Louisiana, and Washington sites. No tonnage estimates are available.

III. COMMUNITY BACKGROUND

A. Community Profile

The City of Niagara Falls is highly industrialized. Located on the Niagara River north of Buffalo, the city lies within a major petrochemical manufacturing area. Many major U.S. petrochemical corporations have facilities in the area, including E.I. DuPont de Nemours Co. (DuPont) and the Olin Corporation. According to 1980 census figures, the city's population was estimated to be 71,000. A large percentage of the region's population works in industries located in the immediate area. Niagara Falls has a traditional economic base related to manufacturing. This base has been eroding, however, due in part to foreign competition and the nationwide decline in manufacturing.

Most residents of Niagara Falls are very aware of hazardous waste issues because of the extensive media coverage of several local hazardous waste sites listed on the National Priorities List (NPL). (The NPL is the federal list of hazardous waste sites that are eligible for investigation and cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 -- more commonly referred to as "Superfund.") In the Niagara Falls area, five sites have been included on the NPL: Love Canal, Hyde Park Landfill, 102nd Street Landfill, Niagara County Refuse, and S-Area. Occidental Chemical Corporation has been listed as one of the potentially responsible parties at several of these sites. Potentially responsible parties are those generators, transporters, and facility owners and operators that EPA believes may be responsible for contributing to a hazardous waste site.

B. Description of Public Involvement

The long history of hazardous waste sites in the area has given rise to the organization of numerous citizen groups whose goals are to identify concerns about hazardous waste issues and voice these concerns. At the local level, citizen groups that have been actively involved with the proposed Occidental permit include:

- LaSalle and Niagara Demand;
- Ecumenical Task Force;
- Great Lakes United; and
- Campaign to Save Niagara.

These citizen groups, along with numerous unaffiliated local residents, have participated in a variety of activities related to proposed Occidental permits, including public meetings, public availability sessions, and a workshop on incineration -- all conducted by EPA or NYSDEC in Niagara Falls. These local groups also have submitted testimony to NYSDEC on the permit application and DEIS and, along with individual residents, have written many letters to the local newspapers regarding the Occidental permit application.

The Occidental application also has drawn the interest of the national environmental organization Greenpeace. Greenpeace members have conducted press briefings and issued news releases about the facility and have actively opposed the test burns scheduled for the plant.

IV. KEY COMMUNITY CONCERNS

The following are key concerns about the Occidental permit and permit modification applications expressed by Niagara Falls residents and officials during interviews conducted by EPA, NYSDEC, and contractor personnel in October 1986. As used below, "residents" refers to the citizens who were interviewed for the preparation of this plan rather than an absolute majority of the citizen population. It is noted again that the concerns expressed in this plan are exclusively those of the interviewees and in no way reflect or represent any EPA or NYSDEC statement of policy or opinion.

The citizens interviewed were selected by contractor personnel from a list -- prepared by NYSDEC and EPA -- of citizens who had previously expressed interest in Occidental's RCRA permit application and Environmental Impact Statement review process. Because of the extensive number of citizens identified as interested, a group of interviewees was selected that would provide a broad understanding of the community's concerns. Representatives of citizen groups, environmental organizations, local and state government, and business organizations, as well as unaffiliated community residents, were interviewed.

Most residents interviewed expressed a fundamental concern over the potential health impacts that may result from additional incineration at the Occidental facility. Many residents also voiced concern about Occidental's ability to safely manage the incineration facility. In addition, several individuals expressed concerns related to EPA and NYSDEC management of the RCRA permit process and government acceptance of an incineration technology many residents believe to be unsafe. Finally, local officials and representatives from the business community expressed concern about the possible adverse economic and environmental implications of denying the permit modification to incinerate NAPL wastes. All of these issues are discussed in detail below.

A. Potential Health Impacts

Many residents and health officials believe that the DEIS prepared for the test burns and long-term incineration of wastes at Occidental does not include an adequate database of the existing ambient air conditions in the area. These residents and health officials believe that a comprehensive ambient air database for the Niagara Falls area is necessary to measure the cumulative impacts of the proposed new emissions from the Occidental facility.

Residents, the Mayor, and public health officials further believe that, because Niagara Falls is a heavily industrialized area, the area has received more than its share of wastes; they are therefore opposed to the idea of Occidental accepting wastes from outside the immediate vicinity. Residents believe that the proposed incineration process would further pollute the air, and they do not want to expose themselves to additional contaminants in order to solve other states' toxic waste problems.

In addition, some residents and health officials believe that the location of the Occidental facility poses particular safety problems. Because the Occidental facility is located in a highly populated area, these individuals see the potential for a significant accident during transport of hazardous wastes to the facility.

B. Occidental's Ability to Handle Toxic Substances

Many residents expressed a lack of confidence in Occidental's ability to manage the facility's incinerator safely, take the necessary actions to correct any problems as they occur, and provide the community complete and timely information about facility activities. Residents stated that these concerns are a direct result of Occidental's performance at other toxic waste sites in the region (i.e., Love Canal, 102nd Street, and the S-Area site). At

these sites, residents believe, the company did not adequately protect public health in its production, disposal, and incineration of toxic wastes. Residents point out, for example, that Occidental undertook no voluntary cleanup action at Hyde Park and acted only when forced to by court order. Residents believe Occidental has not handled its current responsibilities adequately and are concerned about its handling of an incineration facility with wastes that are even more toxic than those the facility is currently licensed to incinerate under Occidental's existing Part 373 permit.

C. EPA and NYSDEC Management of the RCRA Process

Local officials and residents are concerned about the thoroughness of EPA's and NYSDEC's review of Occidental's application and the agencies' monitoring procedures for the facility. These concerns are based upon a belief that the permit and permit modification applications are driven partially by the Settlement Agreement for the cleanup of the Hyde Park Landfill. Because no other viable alternative for the disposal of NAPL wastes from the Hyde Park site has been identified, they further believe that EPA and NYSDEC will approve Occidental's application for a permit modification regardless of health and safety concerns in order to meet an overriding problem (i.e., the cleanup of the Hyde Park Landfill). In addition, several residents are concerned that the RCRA application process provides state and federal government technical assistance to the applicant at an early stage in the permit process, while residents receive no technical assistance and are not brought into the permit process until a much later stage.

Residents and local officials also stated that NYSDEC and EPA officials have not been as responsive to the community's concerns as residents would like. Residents stated during interviews that no easily understandable, factual information is currently available on Occidental's permit application, the RCRA process, or the public involvement process under RCRA and the New York State Environmental Quality Review Act (SEQR).

Although EPA and NYSDEC have held many public meetings in the area to discuss the Occidental facility and other area sites, some residents complained that the great number of public meetings made it difficult to attend all of the meetings and to get a complete picture of the activities at Occidental and how they might relate to other hazardous waste sites in the area. In addition, many of those interviewed expressed frustration with the following aspects of the existing public involvement techniques:

- Inadequate notification of public meetings;
- Incomplete identification of subject matter in public meeting notices;
- Inadequately prepared agency representatives at public meetings;
- Insufficient opportunity for two-way dialogue at public meetings and in the overall public involvement program for the RCRA permitting process; and

- Inadequate follow-up to citizen inquiries.

Several residents contrasted their frustrations with the RCRA public involvement process at Occidental with the efficient, courteous follow-up provided by the NYSDEC public information office at Love Canal. In addition, local officials expressed a desire to receive, from both EPA and NYSDEC, direct information on all technical and legal milestones relative to the Occidental site either prior to or simultaneously with release of information to the general public.

D. Safety of Occidental Incineration Technology

Many residents expressed concern that the incineration technology proposed at the Occidental facility has not been demonstrated adequately. These residents and local officials believe that EPA and NYSDEC, in coordination with interested citizens, should examine alternative technologies that might be applicable for handling the area's wastes. For example, some citizens expressed an interest in innovative technologies being considered at the Love Canal site.

E. Economic Implications of Permit Denial

Some local officials and local business leaders expressed concern that, if Occidental's permit modification to incinerate NAPL waste were denied, it would hamper the cleanup of the area's other hazardous waste sites. These local officials and members of the business community believe that an efficient and timely cleanup of Niagara Falls' hazardous waste sites is necessary to maintain and improve the area's business climate.

V. OBJECTIVES OF THE PUBLIC INVOLVEMENT PROGRAM

EPA and NYSDEC must involve both residents and local officials in order to implement an effective public involvement program at Occidental. The plan must seek involvement of both those "active" residents who already have a strong understanding of the RCRA and SEQR processes as well as those residents who are less knowledgeable and are frustrated by the complex and time-consuming procedures of those processes. The objectives below are specifically aimed at meeting the needs of both residents and local officials interested in participating in the federal and state permitting processes.

A. Clarify the Roles of EPA, NYSDEC, and Occidental Chemical Corporation in the Public Involvement Program

Statements made by residents indicate that confusion currently exists as to which organization has responsibility for particular functions in the permitting process. By differentiating these functions and clarifying EPA's, NYSDEC's, and Occidental's roles, the agencies will help the community understand what is -- and what is not -- under each agency's jurisdiction. The community will then be in a better position to know what it can expect from each of these organizations in addressing its concerns. A clear definition of roles will also help prevent erroneous expectations about EPA or NYSDEC responsibilities in the permitting process. For instance, EPA should

clarify that, although NYSDEC has had responsibility for regulating Occidental under its existing permit, EPA is currently responsible for regulating the incineration of NAPL wastes because of requirements under the Toxic Substances Control Act (TSCA) as well as requirements newly established under the Hazardous and Solid Waste Amendments of 1984 amending RCRA. NYSDEC should clarify its responsibility for the Environmental Impact Statement and many of the public involvement activities. Both agencies should make it known that while they have the authority to regulate new and existing hazardous waste management facilities, they are not responsible for finding or approving sites for new facilities. Similarly, Occidental's role as the applicant, in all terms of initiating the permitting process and responding to agency requests, should be clearly delineated. Differentiating among these functions and explaining the responsibilities of various entities in the permitting process can help resolve residents' confusion.

B. Establish Specific Mechanisms for Receiving and Responding to Public Comments and Questions

Currently, residents are not sure whom they can contact for answers to their questions. Many of the residents interviewed claim that questions at public meetings have not been handled adequately and that phone calls and letters to both EPA and NYSDEC have gone unanswered. Providing residents with a single contact who can answer their questions, follow up on requests for information, and provide the names of others to contact if they need further assistance will help assure residents that the agencies are responsive to their requests. Prompt, knowledgeable responses to questions and comments will demonstrate to residents that EPA and NYSDEC are devoting significant attention to the public's concerns regarding current and proposed operations at Occidental and that the agencies are fully capable of evaluating the technical aspects of the permit and permit modification applications.

C. Ensure that Sufficient, Accurate Information Is Available on Public Participation in the Permit Application Review Process

Residents need clear and concise information to know what opportunities exist for public participation and to understand key differences between the Superfund and RCRA programs. To minimize confusion, EPA and NYSDEC can provide residents with an understanding of the information that is most relevant to the RCRA permitting and SEQR Environmental Impact Statement review process and the most useful ways of providing input to the agencies involved.

D. Improve the Effectiveness of Existing Public Participation Techniques

Although residents and local officials are well aware of the extraordinary resources contributed by EPA and NYSDEC to provide public information and participation in both the Superfund and RCRA process, as evidenced by the many public meetings that have been held to discuss area hazardous waste sites and facilities, there is a general consensus that many of the public participation techniques currently used to meet these objectives are no longer effective. While RCRA and New York's SEQR regulations require a certain number of public meetings or hearings as part of the public involvement program for permitting, EPA and/or NYSDEC should schedule additional public meetings only when the level of community interest warrants them. EPA and NYSDEC should strive to make required public meetings and hearings more effective by, for example, finding the best avenues for advertising the meetings, providing site

information to interested citizens before the meeting, preparing answers in advance to questions likely to be raised at the meeting, and, where possible, combining EPA and NYSDEC hearings into a single, combined hearing. (Techniques for improving the effectiveness of public meetings are discussed in Section VI.)

E. Establish a Long-term, Coordinated Approach to Provide Public Information on Hazardous Waste Issues in the Niagara Falls Area

In recent years, residents of the Niagara Falls area have been confronted with the problems of several area hazardous waste sites and have found a need to understand the various statutes and regulations that EPA and NYSDEC use to address hazardous waste problems. A coordinated interagency public information approach should be developed to aid citizens of the Niagara Falls area in understanding the complex issues involved in solving the area's hazardous waste issues. EPA and NYSDEC may want to consider involving the State University of New York at Buffalo (SUNY Buffalo) in this process. Coordinating informational presentations and workshops with the University could help educate local citizens on the process for permitting treatment facilities, as well as hazardous waste issues in general, in a manner consistent with the University's role in the community.

VI. SUGGESTED PUBLIC INVOLVEMENT TECHNIQUES AND SCHEDULE

Specific public involvement activities related to the review of Occidental's permit and permit modification applications are required by Title 40 of the Code of Federal Regulations, Part 124, Subpart A and Parts 265.112(d) and 265.118(d); and by the New York Environmental Conservation Law 70-0107 Parts 621 and 624. This section describes the required activities³ (marked with an asterisk), as well as other activities that are designed to fulfill the objectives described in Section V of this plan. Both the required and suggested activities are described below and listed in Exhibit 4 at the end of this section. In addition to the list of activities, Exhibit 4 includes a proposed schedule, the responsible organization, and the objectives addressed by each activity. The proposed schedule is based on technical milestones of the permit process and court-ordered deadlines, such as the completion of the trial burns. The activities are listed in the proposed order of their implementation.

³ Pursuant to the April 30, 1982 Settlement Agreement between Occidental and the U.S. Department of Justice (DOJ) and the resulting permit applications described above, Occidental, EPA, and NYSDEC officials have agreed to the "Stipulation and Order on Procedures Concerning Incineration of Hyde Park NAPL" which establishes a schedule, as revised, for required activities for public comment and participation in accordance with New York Environmental Conservation Law 8-0113 Part 617.

1. Designate a Contact Person as the Primary Source of Public Information

A single contact person, who is readily accessible to citizens and responsible for ensuring prompt response to their inquiries will demonstrate EPA's and NYSDEC's commitment to a coordinated public involvement process. Both agencies should agree on a single contact person and commit resources necessary for the person to accomplish the goal of responding to citizen inquiries. This individual should be charged with coordinating responses to written inquiries, as well as those inquiries raised at public meetings, in a timely manner, and establishing a written record of these responses.

Schedule: A central contact person should be identified as soon as possible -- by September 15, 1987 at the latest -- as a focal point for all inquiries on the permit review process for the Occidental facility.

2. Establish and Maintain Accessible Information Repositories*

RCRA regulations require that one information repository be established in the facility community and that it contain the administrative record for a RCRA draft permit, including the permit application. In this instance, however, the level of citizen involvement and the nature of the citizen concern warrant the establishment of several information repositories in easily accessible locations -- for example, in the neighborhoods of LaSalle and downtown Niagara Falls. Establishing more than one repository will ensure that information will be available to interested citizens and residents who have already demonstrated a substantial level of concern about the facility. The master repository will be located at the EPA Public Information Office in Niagara Falls with a satellite repository in the LaSalle Branch Public Library. (See Appendix B for locations and hours of operation.) The repositories should contain copies of the permit application, any draft permit(s) that are developed, fact sheet(s), information on RCRA, and information on the designated primary contact. These documents can provide residents with answers to many of their current questions on the RCRA process and on details of the permit application itself. Providing relevant documents in easily accessible locations will make it easier for residents to review available information and to participate knowledgeably in the permit application review process. In addition, EPA and NYSDEC should make an effort to notify all key local officials of documents placed in the repository, as local officials expressed a desire to be provided with relevant information either prior to or simultaneously with its release to the general public.

Schedule: It is important that the information repositories be established as soon as appropriate locations are found. Establishing the repositories before the notice of intent to deny is issued or a draft permit is released will give residents time to evaluate relevant information before a decision is made. Immediate

* Activities required by RCRA public involvement regulations in Title 40 of the Code of Federal Regulations, Part 124, Subpart A and Parts 265.112(d) and 265.118(d).

establishment of the repositories will help assure residents of EPA's and NYSDEC's intent to encourage public comment on the decision to approve or deny the permit application. If possible, therefore, the information repositories should be established by September 15, 1987.

3. Develop and Distribute RCRA Fact Sheet(s) on the Permit Application*

RCRA regulations require that a fact sheet be prepared and distributed if a draft permit is developed. In the case of the Occidental facility, where concerns are diverse and are often intertwined with concerns over area Superfund sites, it may be useful to prepare a packet of shorter fact sheets that cover several topics. These fact sheets can be used to clarify points of confusion and to provide information on the best possible ways for parties interested in the permit application to participate in the permit review process. The fact sheets could explain, for example, the operation of the incineration technology proposed to be used at Occidental and other known technologies; such information would try to address citizen concerns over the relative safety of the Occidental incineration technology as described in Section IV.D. above. Some of the fact sheets may cover topics that are relevant to other sites in the area or State, such as the relationship and differences between the RCRA permitting process and the Superfund cleanup process. Clarifying this relationship, and providing information on EPA and NYSDEC plans and progress on area sites will aid in addressing local government and business concerns that disapproval of the application would slow down the cleanup of area hazardous waste sites.

It is important to distribute the fact sheets as one package to ensure that residents receive all of the essential information, that no one receives conflicting information from different sources, and that residents have a complete set of materials to which they can refer. One advantage of preparing separate fact sheets is that, in doing so, NYSDEC will be developing generic pieces that will be useful at other sites. The generic fact sheets can serve as part of the "permanent interagency public information approach" identified as a desirable goal under Section V.E. above. This packet of fact sheets can be organized so that specific fact sheets on issues related to Occidental can be combined with fact sheets on topics relevant to many RCRA sites. Suggested topics for individual fact sheets are listed below:

- The history of the site and of the Occidental facility's industrial operations in the community;
- The status and schedule of the permit application and the dates for the public comment period;
- The roles of EPA, NYSDEC, and Occidental, including an explanation of who is responsible for various activities in the application and review process;
- The RCRA permitting process, including:
 - The legal and regulatory requirements of the permit program;

- An extensive glossary explaining the technical vocabulary used in the application; and
 - The public involvement activities designed to provide residents with opportunities to meet with EPA and NYSDEC to ask questions and provide comments.
- An explanation of the test burns;
 - An explanation of incineration technology;
 - An explanation of how RCRA relates to other hazardous waste management programs, including the relationship with Superfund and the Toxic Substances Control Act (TSCA).

Schedule: The packet of fact sheets should be distributed to a mailing list of individuals interested in the site and placed in the information repositories as soon as possible, and before a notice of intent to deny is issued or a draft permit is developed. The mailing list should include interested citizens, and local officials of both Niagara Falls, New York and Niagara Falls, Ontario, Canada. The fact that NYSDEC has begun developing generic fact sheets will ease the burden of this tight schedule. Providing this information early will demonstrate to the community EPA's and NYSDEC's strong interest in providing information on the permit application and the schedule for interacting with the public and, thereby, counteract the present feeling by some individuals that both agencies are unresponsive.

4. Newspaper Column

A newspaper column published in local and regional newspapers could provide a regular forum for: informing the public on the status of the permit application, explaining public notices, and discussing the significant milestones that occur in a permit review process. Summaries of these milestones (such as the test burns) as well as of past meetings could help keep the public up to date. The newspaper column also could include the information covered in the update letter suggested below. This method of broad coverage would help to ensure that all interested citizens are fully informed. Appendix C lists newspapers read by area residents.

Schedule: The column should be scheduled at regular intervals so citizens know when to look for it. By discussing the site in a journalistic information style, EPA and NYSDEC will ensure that their actions and planned events will be better understood.

5. Public Information Meeting

According to the "Stipulation and Order on Procedures Concerning Incineration of Hyde Park NAPL" (Stipulation), EPA and NYSDEC must hold a public information meeting prior to the NAPL test burn that is scheduled for the fall. Because the NAPL test burn is a precursor to an application to

modify permits that are still under review, confusion over the relationship of this meeting to the permit review process is likely to occur. EPA and NYSDEC will need to explain why the Stipulation requires the incineration of NAPL wastes to be treated as a modification to permits which have yet to be renewed or issued and why a test burn for NAPL wastes is being authorized before the permit review process has been concluded. This meeting is also likely to be a focal point for citizen concern over the incineration of wastes being brought in from other states.

Schedule: The meeting should be held in September prior to the NAPL test burn.

6. Develop and Distribute Information Update Letter

After the packet of fact sheets has been distributed to the site mailing list and information repositories, and the test burns completed, EPA and NYSDEC will release a short letter to residents, officials (including U.S. and Canadian local officials in the Niagara Falls area), and the media if new developments occur that would affect the public's participation in the permitting process. The letter could announce the schedule for releasing a notice of intent to issue or deny a draft permit, the dates for the public comment period, and/or the results of the test burns. This follow-up to the packet of fact sheets will facilitate public participation in the permit process by providing interested parties with the information necessary to participate meaningfully in the public comment period.

Schedule: The letter should be distributed, if possible, by the end of October 1987. This will show residents that EPA and NYSDEC want to keep them informed of activities related to the Occidental permit application.

7. Public Comment Period on the Draft Permit or Notice of Intent to Deny*

Applicable RCRA and New York State Environmental Conservation Law (ECL) regulations require that (1) a forty-five day public comment period be provided on a draft permit or notice of intent to deny, and (2) notice of the release of a draft permit be published in a major local newspaper and broadcast over local radio stations. In an effort to further ensure active citizen participation, EPA and NYSDEC may wish to expand the public comment period to sixty days. In addition, a clear and concise description of any permit decisions, as well as when further information on the project will be available, should be prominently displayed in local newspapers and provided to local radio and television stations. Due to the extensive citizen interest in this permit, EPA and NYSDEC will provide notice to the media in Buffalo as well as Niagara Falls.

Although it is not required, EPA and NYSDEC should also distribute a press release announcing the beginning of the public comment period that tells residents where to send their comments. Ensuring that residents understand how and when to comment and the purpose of the comment period will demonstrate the agencies' commitment to listen to residents and respond to their questions.

Schedule: RCRA regulations require that the public comment period be held immediately after the release of a notice of intent to issue or deny a draft permit.

8. Public Hearing(s) on Notice of Intent to Deny or Release of a Draft Permit (if requested*)

A public hearing is required by RCRA if sufficient, appropriate requests for a hearing are submitted during the comment period. Notice of the public hearing must be published thirty days prior to the meeting in the local newspaper and in the New York State Environmental Notice Bulletin. To ensure that adequate notification is given, clear and concise descriptions of the issues to be addressed at public hearings should be included. Notices may be in the form of letters, newspaper advertisements, posters, or other graphic formats. Using eye-catching headlines or photographs, or personalizing issues, helps entice the public to read them. Notices should explain why it is important to attend the hearing and what influence or responsibility attendees will have. The notice should highlight issues to be covered at the hearing, decisions to be made, and the potential impact of decisions.

RCRA regulations require that the hearing be either tape recorded or transcribed. (At present, it has not been decided whether EPA and NYSDEC will hold public hearings separately or combine them.) In addition to the hearing on a draft permit required by RCRA, ECL regulations require that an adjudicatory hearing be conducted by NYSDEC before an administrative law judge if the issues warrant it. The transcript for any public or adjudicatory hearing should be placed in the information repositories. Additionally, an opportunity for residents to participate in a question and answer session could be provided as opposed to a session in which testimony is given without response. EPA and NYSDEC officials should participate in a dry run in order to ensure that their responses are clear, concise, well-coordinated, and easily understood. Inquiries and questions that cannot be adequately answered at a hearing should be addressed in the written response to comments described below.

Schedule: Although the date is not specified by law, holding the public hearing near the end of the comment period will provide residents with almost the entire 45-day comment period to study the permit and prepare their comments. Therefore, the public hearing should be held near the end of the public comment period. According to the Stipulation, any adjudicatory hearing will be held by NYSDEC after the close of the comment period.

9. Responsiveness Summary*

RCRA regulations require a written response to written and oral comments received during the comment period and public hearing(s). The responsiveness summary should address agency actions in response to public comments. This effort could be coordinated by the primary contact person suggested above. The release of a responsiveness summary will indicate to the public how their comments have affected agency decisions and will give decision-makers an overview of the main areas of public concern. The document also will inform the public of their collective actions and interests.

Schedule: The responsiveness summary should be released as soon as possible after the close of the public comment period. By responding quickly, EPA and NYSDEC can demonstrate their interest in public involvement and its impact on the permit review process.

10*,11*,12*, and 13*. Fact Sheet, Public Comment Period, Public Hearing(s), and Responsiveness Summary on Permit Modification

Assuming Occidental is issued all permits and authorizations to store and incinerate process wastes and assuming the NAPL test burn is conducted and produces appropriate results, Occidental is required by the Stipulation to apply for a permit modification for its proposal to incinerate NAPL wastes from the Hyde Park Landfill and other wastes from Occidental facilities in Washington, Louisiana, and New York. RCRA regulations require a permit modification of this type to be treated in most respects as if it were another permit application with the same requirements for a fact sheet, draft permit, public comment period, public hearing (if requested), and responsiveness summary. The review of the permit modification application will also include the finalization of the Environmental Impact Statement and (if warranted) a NYSDEC adjudicatory hearing as required by SEQRA. The Stipulation makes clear that these events and associated public involvement activities are to take place subsequent to final determination of the currently pending permit application.

Schedule: While the Stipulation determines the order of events, the schedule for their completion is currently under revision by the U.S. District Court. When this revised schedule is released it will be appended to this plan.

EXHIBIT 4
PUBLIC INVOLVEMENT ACTIVITIES FOR
THE OCCIDENTAL CHEMICAL CORPORATION FACILITY

<u>ACTIVITY</u>	<u>OBJECTIVE SATISFIED⁴</u>	<u>PROPOSED IMPLEMENTING ORGANIZATIONS⁵</u>	<u>PROPOSED SCHEDULE</u>
1. Primary Contact Person	B,C	NYSDEC (Reg. IX)	Designated by September 15, 1987
2. Information Repository	A,C,D	EPA/NYSDEC (Reg. IX)	Established by September 15, 1987
3. Fact Sheet(s)	A,C,D,E	NYSDEC (Albany and Reg. IX)	Prior to release of draft permit or tentative decision to deny
4. Newspaper Column	A,B,C,E	NYSDEC (Albany and Reg. IX)	As soon as logistics can be coordinated
5. Public Meeting	A,B,C	EPA/NYSDEC (Albany and Reg. IX)	Before NAPL test burn
6. Update Letter	B,C	NYSDEC (Reg. IX)	October 15, 1987
7. Public Comment Period	B,C,D	EPA/NYSDEC (Reg. IX)	After release of draft permit or tentative decision to deny

⁴ Objectives are as follows:

A. Clarify the roles of EPA, NYSDEC and Occidental Chemical Corporation in the public involvement program (for the remainder of the permit process).

B. Establish specific mechanisms for receiving and responding to public comments and questions.

C. Ensure that sufficient, accurate information is available on public participation in the permit review process.

D. Improve the effectiveness of existing public participation techniques.

E. Establish a long term, coordinated system to provide public information on the hazardous waste issues in the Niagara Falls area.

⁵ NYSDEC has ten regional offices; the director of each is authorized to review RCRA permit applications. The NYSDEC Region IX office is in Buffalo.

EXHIBIT 4
(Continued)

PUBLIC INVOLVEMENT ACTIVITIES FOR
THE OCCIDENTAL CHEMICAL CORPORATION FACILITY

<u>ACTIVITY</u>	<u>OBJECTIVE SATISFIED</u>	<u>PROPOSED IMPLEMENTING ORGANIZATIONS</u>	<u>PROPOSED SCHEDULE</u>
8. Public Hearing(s) ⁶	B,D	EPA/NYSDEC (Albany and Reg. IX)	At the end of the public comment period
9. Responsiveness Summary	B,C	EPA/NYSDEC	After close of the public comment period
10. Fact Sheet	A,C,E	EPA/NYSDEC	Prior to release of draft permit (modification) or tentative deci- sion to deny
11. Public Comment Period	B,C,D	EPA/NYSDEC (Albany and Reg. IX)	After release of draft permit (modification) or tentative deci- sion to deny
12. Public Hearing(s) ⁶	B,D	EPA/NYSDEC (Albany and Reg. IX)	At the end of the public comment period
13. Responsiveness Summary	B,C	EPA/NYSDEC	After close of the public comment period

⁶ In addition to a public hearing, NYSDEC will conduct an adjudicatory hearing after the close of the comment period, unless the issues do not warrant it.

APPENDIX A.

A BRIEF OVERVIEW OF FEDERAL AND NEW YORK STATE LAWS GOVERNING HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Resource Conservation and Recovery Act (Federal)

A Resource Conservation and Recovery Act Subtitle C permit allows an operator to run a hazardous waste treatment, storage, or disposal facility under the supervision of either EPA or an authorized state agency. To apply for a permit, the operator submits a permit application to EPA, or to the state if the state is authorized. (New York is partially authorized to manage the RCRA program, including permit issuance which involves most RCRA requirements. The permit application must also be submitted to EPA to meet the RCRA requirements not managed by New York State.) The permit application is divided into two parts, A and B. Part A is a short standard form that collects general information about a facility. Part B of the permit application is much more extensive than Part A. It requires the owner or operator to supply detailed and highly technical information, e.g., chemical and physical analyses of the hazardous waste to be handled at the facility. After the facility operator submits the permit application, EPA and/or the State then notifies the operator as to what, if any, additional information is needed to complete the application. Once all the information is supplied, EPA and/or the State writes a draft permit or notifies the operator that the agency intends to deny the application. After a draft permit is released or a notice of intent to deny is issued and a public comment period of 45 days has concluded, EPA and/or the State can take one of three actions: (1) issue the final permit, (2) modify the draft permit and reissue it, or (3) deny the application. A final decision of issuance or denial can subsequently be appealed.

Toxic Substance Control Act (Federal)¹

The Toxic Substance Control Act (TSCA), enacted into law in 1976 and amended in 1981, is designed to protect human health and the environment from chemical substances and mixtures which may present an unreasonable risk from exposure. The PCB test burn at the Occidental plant, for example, is regulated under TSCA. TSCA requires manufacturers, processors, and distributors to inform EPA if they have reason to suspect that a chemical substance or mixture presents a risk of injury to health or the environment. TSCA includes numerous enforcement provisions to ensure compliance with its requirements including inspections, subpoenas, civil penalties, civil actions, criminal penalties, citizen suits, and citizen petitions. Any citizen may commence a civil action against any person any government or agency (to the extent permitted under the eleventh amendment to the Constitution of the United States) who is alleged to be in violation of this Act, or against the Administrator of the EPA to compel the Administrator to perform any act or duty under this Act which is not discretionary.

¹ Source: Environmental Reporter, "Toxic Substance Control Act", The Bureau of National Affairs, Inc., p. 71:8501.

Environmental Conservation Law (New York State)

The Environmental Conservation Law (ECL) is a compendium of legislation in the State of New York governing the protection of the environment that was passed in 1975 to incorporate environmental factors into the early planning stages of development and construction projects. Article 8 of the ECL, the State Environmental Quality Review (SEQR), delineates the procedures for reviewing and processing permit applications governed by the ELC and establishes requirements for public involvement in the permitting process.

Two important regulations established under Article 8 are Part 617 "Environmental Quality Review" and Part 621 "Uniform Procedures". Part 617 establishes the procedures under SEQR. SEQR is designed to incorporate the consideration of environmental factors into the planning, review, and decision-making process of State, regional, and local government agencies. All proposed projects that may have a significant effect on the environment are required to submit an Environmental Impact Statement (EIS). This statement must examine the effects on the environment that would result from the project, compare the relative effects and benefits of alternatives, and respond to all substantive comments from the affected public. This process establishes a formula for a planning process that blends a suitable balance of social, economic, and environmental factors. Part 621 establishes the procedures for processing project applications under the ELC. These procedures may contain public participation elements depending on the nature and scope of the applicant's project. These regulations also establish the structure of the SEQR review and the EIS process during the permit review.

Part 373 of the Uniform Procedures Code for the State of New York (New York State)

Part 373, which encompasses the majority of RCRA permitting requirements and standards, establishes New York State's hazardous waste permit program. This legislation predates RCRA and governs the existing NYSDEC-issued permit for the Occidental facility.

APPENDIX B

SUGGESTED LOCATIONS FOR INFORMATION REPOSITORIES

The following are locations where a permanent interagency public information system, incorporating information on all area hazardous waste sites, could be developed:

EPA Public Information Office
345 3rd Street
Niagara Falls, New York 14303
(716) 285-8842
Hours: Monday-Friday 9 am to 5 pm

LaSalle Public Library
8728 Buffalo Avenue
Niagara, New York 14304
(716) 283-8309
Hours: Monday, Tuesday, Thursday, Friday 1 pm to 5 pm
Wednesday 1 pm to 9 pm

APPENDIX C
MEDIA CONTACTS

Newspapers

Niagara Gazette (716) 282-2311
310 Niagara Street
Niagara Falls, NY 14303

Buffalo News (716) 849-3434
1 News Plaza
P.O. Box 100
Buffalo, NY 14240

Radio

WJLL-AM (716) 285-5795
Niagara Frontier Broadcasting Corporation
1224 Main Street
Niagara Falls, NY 14301

WBEN-AM/FM (716) 876-0930
1077 Elmwood Avenue
Buffalo, NY 14207

WBUF-FM (716) 882-4300
715 Delaware Avenue
Buffalo, NY 14209

WEBR-AM (All News) (716) 886-0970
23 North Street
Buffalo, NY 14202

Television

WKBW-Channel 7 (ABC) (716) 845-6100
7 Broadcast Plaza
Buffalo, NY 14202

WIVB-Channel 4 (CBS) (716) 874-4410
2077 Elmwood Avenue
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WGRZ-Channel 2 (NBC) (716) 856-1414
259 Delaware Avenue
Buffalo, NY 14202